Author: Anderson, Ellen F.

Title: Problems arising from public regulation of milk prices with special reference to Pennsylvania

Place of Publication:

Copyright Date: 1938

Master Negative Storage Number: MNS# PSt SNPaAg027.10

<241720> * *OCLC* Form:manuscript item 2 Input:LRG Edit:FMD
008 ENT: 971013 TYP: s DT1: 1938 DT2: LAN: eng
035 (OCoLC)37765488
037 PSt SNPaAg027.10 $bPreservation Office, The Pennsylvania State University, Pattee Library, University Park, PA 16802-1805
090 20 Thesis 1938m $bAnder,EF $cst*21705021 $cax+(Archival)
090 20 Microfilm D244 reel 27.10 $cmc+(service copy, print master, archival master)
100 1 Anderson, Ellen F.
245 10 Problems arising from public regulation of milk prices with special reference to Pennsylvania $ba thesis $cby Ellen F. Anderson.
260 $c1938.
300 [8], 92, xv leaves $bill. $c28 cm.
502 Thesis (M.S.)--Pennsylvania State College.
533 Microfilm $bUniversity Park, Pa. : $cPennsylvania State University $d1997. $e1 microfilm reel ; 35 mm. $f(USAIN state and local literature preservation project. Pennsylvania) $f(Pennsylvania agricultural literature on microfilm).
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THE PENNSYLVANIA STATE COLLEGE

The Graduate School

Department of Agricultural Economics

PROBLEMS ARISING FROM PUBLIC REGULATION OF MILK PRICES WITH SPECIAL REFERENCE TO PENNSYLVANIA

A Thesis

by

ELLEN F. ANDERSON

Submitted in partial fulfillment

for the degree of

MASTER OF SCIENCE

June 1938

APPROVED May 21 1938

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APPROVED May 21, 1938

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ACKNOWLEDGMENTS

The writer wishes to express her appreciation to those members of the Department of Agricultural Economics, F. F. Lininger, W. V. Dennis and F. P. Weaver, who have counseled and assisted her in the preparation of this thesis. The cooperation of Howard G. Eisaman, Chairman of the Pennsylvania Milk Control Commission and many of the employees of the Commission is gratefully acknowledged, especially the time and assistance given by Miss Margaret Young and John Pfautz.

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CONTENTS

Page

INTRODUCTION 1

FEDERAL CONTROL 2

MILK CONTROL IN OTHER STATES 9

MILK CONTROL IN PENNSYLVANIA 14

The Legal Basis 14

1. Operation of Milk Price Control Under the First Law 17

2. Operation of Milk Price Control Under the Second Law 23

3. Operation of Milk Price Control Under the Present Law 30

4. The Court Decisions 34

The Problems Arising from Milk Price Control 36

1. The Development of the Order 37

2. Area 41

3. The Problem of Fixing Prices 52

Milk Prices and Other Prices 57

Differentials for Fluid Uses 62

Prices and Interstate Movements 69

4. Special Grades 76

5. Production Control 79

6. The Costs Argument 84

SUMMARY 86

CONCLUSIONS 91

APPENDIX

TABLES

Table — Page

1 - Markets Arranged According to Milk Classifications, January 1, 1938 6

2 - Markets Operating Under the Three Types of Pools Authorized by Federal Orders, January 1, 1938 8

3 - Length of Time Intervening Between Date of Hearing and Effective Date of Subsequent Order, for the First Eighteen Orders Issued by the Milk Control Commission 40

4 - Dealers' Buying Price for 3.5 Per Cent Grade "B" Milk f.o.b. in the Major Classifications at Three Markets Since the Inauguration of Milk Control 48

5 - Pittsburgh Class 1 Prices in Dollars Per Hundredweight 3.5 Per Cent Grade "B" Milk, 1928-1937 59

6 - Differentials for Milk in Fluid Uses - Philadelphia 67

7 Differentials for Milk in Fluid Uses - Pittsburgh 68

8 - A Comparison of the Volume of Surplus Milk in the Pittsburgh Market and the Differentials for Class 1 Milk Over Milk Used to Produce Cream or Butter, 1934-1937 69

9 - Percentage of Receipts of Fluid Milk at Philadelphia Metropolitan Area, Originating in Pennsylvania, 1935-1937 72

10 - Percentage of Total Cream Receipts at Philadelphia by State of Origin, 1933-1937 72

11 - Percentage of Total Cream Receipts at Philadelphia from Pennsylvania Sources by Months, 1933-1937 72

12 - Net Differences in Market Price of 40 Per Cent Cream at Philadelphia and the Price Paid Pennsylvania Producers for Milk Used as Cream Compared with the Per Cent of Out-of-State Receipts, 1935 and 1936 75

13 - Percentage of Receipts of Milk and Cream at New York and Metropolitan Area Originating in Pennsylvania 76

Table — Page

14 - Extent of Seasonal Variation of Milk Receipts from Producers in the Three Major Milk Sheds of Pennsylvania, 1930-1936 81

Appendix

1 - Weighted Composite Index Numbers of 20 Farm Products in Pennsylvania, 1922-1937 i

2 - Index Numbers of Prices of a 20 Per Cent Dairy Feed ii

3 - Index Numbers of Pennsylvania Prices of Milk Containing 4 Per Cent Butterfat iii

4 - Pounds of Milk Required to Buy a Ton of 20 Per Cent Dairy Feed iv

FIGURES

Figure — Page

1 - Milk Marketing Agreements Under the Agricultural Adjustment Administration in Effect January 1, 1938 5

2 - States Providing for Some Type of State Control of the Production and Distribution of Milk, January 1, 1938 10

3 - Location of Farms in Centre County From Which Milk Was Sold to Various Markets, 1931-1935 46

4 - Dealers' Spreads Between the Buying Price of Class 1 and the Retail Price Per Quart of 4 Per Cent Milk in Philadelphia, Pittsburgh and the State-wide Areas Since April 1934 51

5 - Dealers' Spreads Between the Buying Price of the Amount of Milk Needed for One-Half Pint of Light Cream and the Retail Price Per Half Pint of Light Cream in Philadelphia, Pittsburgh and the State-wide Areas Since April 1934. 53

6 - Index Numbers of the Price of Dairy Feed in Pennsylvania and the Price of Fluid Milk at Pittsburgh, 1928-1937 58

7 - Pounds of Milk Required to Buy a Ton of Dairy Feed in Pennsylvania, 1922-1937. (Line graph shows yearly average. Vertical bars show range from the highest to the lowest months of each year.) 61

8 - Index Numbers of the Price of 4 Per Cent Milk and the Composite Index of the Prices of 20 Farm Commodities in Pennsylvania, 1922-1937. 63

9 - Index Numbers of the Price of Milk in Pennsylvania and the United States Index of Wholesale Prices, 1922-1937 64

10 - The Differentials Between Class Prices and the Increase in Surplus in the Pittsburgh Market, 1934-1937 70

11 - Percentage of Receipts of Cream at Philadelphia Originating in Pennsylvania, 1933-1937. 73

Appendix

Figure — Page

1 - Milk Marketing Areas Defined by the Pennsylvania Milk Control Board, April 2, 1934 v

2 - Milk Marketing Areas Defined by the Pennsylvania Milk Control Board, June 1, 1934 vi

3 - Milk Marketing Areas Defined by the Pennsylvania Milk Control Board, August 7, 1934 vii

4 - Milk Marketing Areas Defined by the Pennsylvania Milk Control Board, October 1, 1934 viii

5 - Milk Marketing Areas Defined by the Pennsylvania Milk Control Board, November 16, 1934 ix

6 - Milk Marketing Areas Defined by the Pennsylvania Milk Control Board, January 16, 1936 x

7 - Milk Marketing Areas Defined by the Pennsylvania Milk Control Board, June 16, 1936 xi

8 - Milk Marketing Areas Defined by the Pennsylvania Milk Control Board, October 11, 1936 xii

9 - Milk Marketing Areas Defined by the Pennsylvania Milk Control Board, January 1, 1937 xiii

10 - Milk Marketing Areas Defined by the Pennsylvania Milk Control Commission, June 2, 1937 xiv

11 - Milk Marketing Areas Defined by the Pennsylvania Milk Control Commission, July 1, 1937 xv

EXPLANATION OF TERMS

As the terms are used in this thesis they will have the following meanings:

Price control means any determination of price by other than free competitive forces.

A federal order is an order issued by the Secretary of Agriculture regulating the handling of milk in the current of interstate or foreign commerce.

Classification of milk refers to the listing of milk on the basis of how it is used for the purpose of setting up a price schedule.

Surplus milk is that supply of milk which reaches the market over the amount required for fluid milk consumption.

A market pool is a method for paying producers whereby they receive an average or blended price for all classes of milk sold on that market.

Spread is the dealer's margin between the price he pays the farmer and the price he receives from the consumer for milk or cream.

Under the base-surplus plan of payment for milk the producer receives a higher price for his base (or normal) production than for any amount in excess of the base.

A store differential is the amount by which the store price is less than the price for wagon-delivered milk.

Sales quantity control refers to control of seasonal variations in production.

Standardizing refers to the dealers' practice of adding cream or skimmed milk to milk purchased from producers in order to offer

bottles of uniform milk for sale.

The principal grades of milk offered for sale for human consumption are "A" and "B". "A" is produced according to more strict sanitary requirements and usually has a higher butterfat content than "B".

INTRODUCTION

The crash in the fluid milk industry which occurred in 1933 came at a time when government regulation was being proposed and adopted as a remedy for depression ills. Codes and commissions had been established in other enterprises. It is not strange that political leaders promised the distressed dairy farmers some government aid in righting the industry. Dairy farmers were clamoring for help fully as loudly as other groups. It is not the purpose of this paper to suggest other possible steps which might have been taken but rather to present an accurate account of facts relating to the government control of milk prices. In the words of Howard G. Eisaman, Chairman of the Pennsylvania Milk Control Commission,

> "It is perfectly clear and perceivable to one who realizes the very recent origin of milk control in this country just why we are today confronted with so many perplexities and baffling problems[1]."

The early mistakes in price fixing can be attributed to and excused in part on this theory that they were experimental. It is well, however, to record these errors as a warning and to note any successes which may form useful precedents.

---

[1] Address before the National Association of Milk Control Boards, Portland, Oregon, 1937.

FEDERAL CONTROL

There was agitation for control of milk prices when the dairy farmers were hit by the downward turn of the purchasing power of milk cows in the years 1915 to 1918[2]. The New York farmers' milk strike in 1916, the Boston upheaval and the two milk strikes in the Chicago area in 1917 are evidence of the unsettled conditions. Editorial comment at that time suggested governmental control of milk prices.

Price control on a national plan was authorized by the omnibus Act of May 12, 1933 which, among other things, established the Agricultural Adjustment Administration. Under the General Powers assigned to the Secretary of Agriculture was included the power "to enter into marketing agreements with processors, associations of producers and others engaged in the handling in the current of interstate or foreign commerce of any agricultural commodity or product thereof, after due notice and opportunity for hearing to interested parties".

The legality of such marketing agreements was not impaired by the Supreme Court when it declared in 1936 that the processing taxes were unconstitutional.

Representatives from the unsettled Chicago market requested assistance under the act immediately upon its adoption. The early formulators of the A.A.A. dairy policies were Dr. Clyde L. King, on leave from the University of Pennsylvania, and a group of younger economists headed by Dr. Edwin A. Gaumnitz who had been an economist in the Bureau of Agricultural Economics. Dr. King had been active in

---

[2] Lininger, F. F. Dairy Products Under the Agricultural Adjustment Administration. The Brookings Institution. Page 3.

bargaining efforts on the part of producers' cooperative organizations and dealer groups in several eastern and mid-west markets.

The problems which arose in the Chicago case covered the major issues for other areas. The principal features of the market agreements have been summarized by Dr. F. F. Lininger for The Brookings Institution[3]. He lists:

"Definition of terms and delineation of the milkshed and sales area.

"Establishment of the interstate character of the market.

Fairness of provisions as to prices to producers for Class I, Class II and Class III milk. The basis of purchase, the plan for equalizing payments between comparable producers, such as the pooling systems or other adjustment plans, and the plans for equalizing between distributors and the so-called surplus, or excess of fluid milk receipts over fluid milk sales.

"Production control provisions, if any.

"Provisions for check-offs to the producers' association, the dairy council (if any), the adjustment fund, or any other service charges. Definite limitations on these check-offs were considered desirable.

"Provisions for handling non-members of the association, new producers in the market, or others.

"Reasonableness of distributors margins and relationship between margins on various products or quantities.

"Place of producer-distributor in the market.

"Store prices: margins, relationship to wagon delivery prices and change from present status.

"Reasonableness of prices to consumers of milk and cream of various percentages of butterfat; of raw pasteurized and special milk; of quarts, pints, and other units; of by-products such as buttermilk, skim milk, chocolate milk, and cottage cheese.

"Health and quality standards.

"Schedule of fair practices - reasonableness and enforceability.

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[3]Lininger, F. F. Op. Cit. Page 33.

"Organization or plan for carrying out the various provisions of the agreement, such as allotment of producer bases, handling of the adjustment fund, and equalizing distributors' surplus burden.

"Equitableness of representation on any committee, boards, or councils that were provided for in the agreement.

"Probable relative and actual benefits from the agreement to producers and distributors, and probable burden and benefit, if any, to consumers.

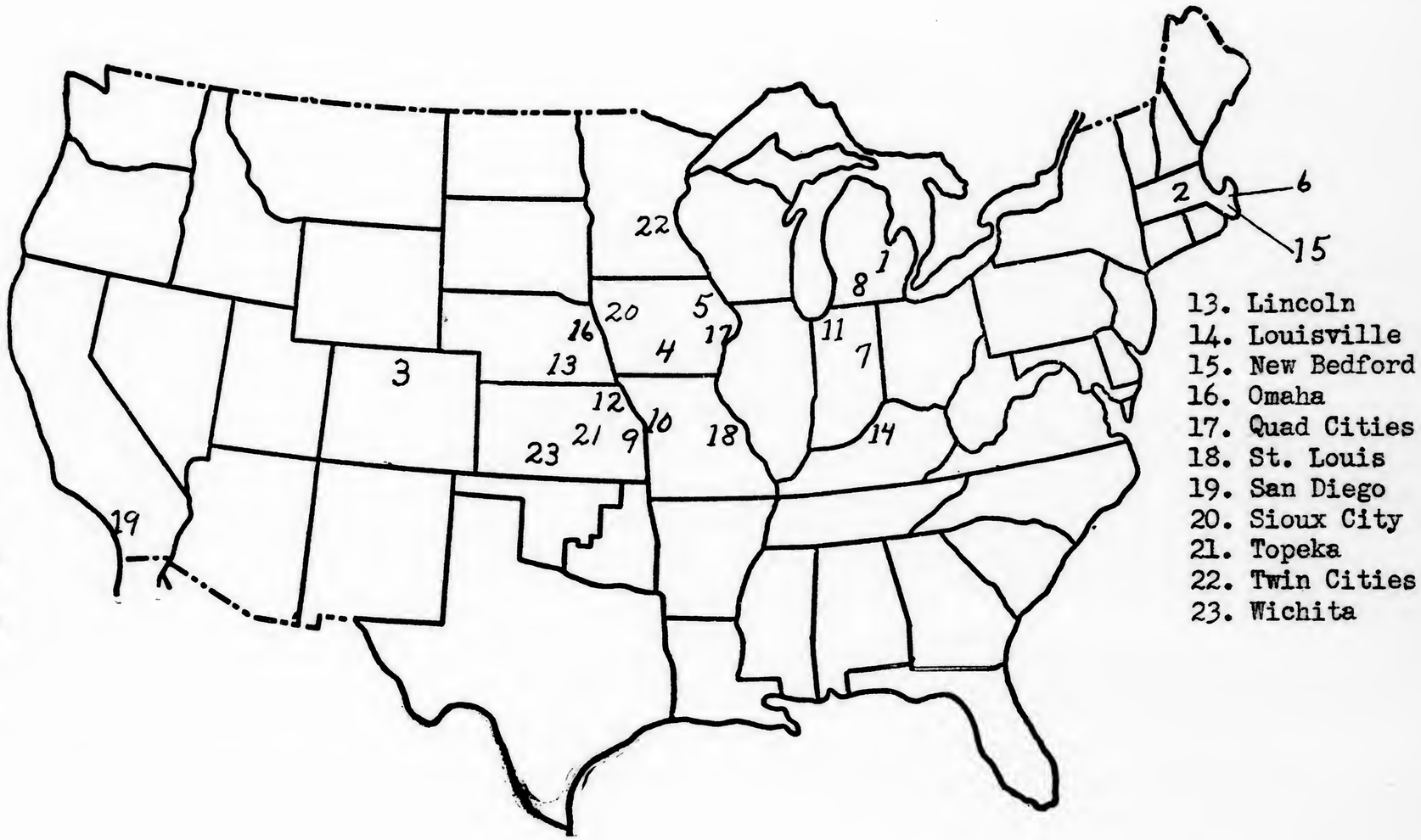
"Relationship of prices to producers and consumers to those prevailing in the base period (August 1909 - July 1914), with due consideration for changes in other prices and in production and distribution.

"Any other provisions in the agreement which might in any manner affect the market, or various agencies in the market, or the public in general."

The Agricultural Adjustment Administration was hampered at first by the uncertainty concerning the constitutionality of the act but the point was cleared by the Nebbia case which tested the New York State law. An important contribution at the outset and since its inauguration has been the fund of information collected by the Dairy Section of the Agricultural Adjustment Administration for markets for which federal orders fixing milk prices have been written and for many other markets in which agreement has been reached without the order process.

There were on January 1, 1938, 23 federal orders effective in markets of the east and the west. A great majority of the orders were for markets in the Central Plateau area, figure 1. The exceptions were three Massachusetts cities, Denver, Colorado, and San Diego, California.

The general procedure in the establishment of the orders has been similar. There is some indication of an attempt to make orders adapted to the particular needs of the market. For example, the classification principle on which milk prices are based is universal but



1. Battle Creek
2. Boston
3. Denver
4. Des Moines
5. Dubuque
6. Fall River
7. Fort Wayne
8. Kalamazoo
9. Kansas City, Kansas
10. Kansas City, Missouri
11. La Porte
12. Leavenworth
13. Lincoln
14. Louisville
15. New Bedford
16. Omaha
17. Quad Cities
18. St. Louis
19. San Diego
20. Sioux City
21. Topeka
22. Twin Cities
23. Wichita

FIGURE 1 - Milk Marketing Agreements Under the Agricultural Adjustment Administration in Effect January 1, 1938.

definitions and number of classes vary.

The most common classification was Class I, Class II and Class III although five areas have also a Class IV and four markets were set up with only two classes, table 1.

Table 1 - Markets Arranged According to Milk Classifications, January 1, 1938.*

Classes I and II	Classes I, II and III	Classes I, II, III and IV
Boston	Battle Creek	Denver
Fall River	Des Moines	Fort Wayne
New Bedford	Dubuque	Lincoln
Twin Cities	Kalamazoo	Quad Cities
	Kansas City, Kansas	San Diego
	Kansas City, Missouri	
	Leavenworth	
	Louisville	
	Omaha, Council Bluffs	
	St. Louis, Missouri	
	Sioux City	
	Topeka	
	Wichita	
	Laporte	

*Letter from Dr. Edwin F. Gaumnitz of October 12, 1937 and news releases of the Agricultural Adjustment Administration.

In seven cities[4] the Class I price was expressed in pounds of butterfat. Other Class I prices were given for hundredweight of milk testing 3.5, 3.7, 3.8 or 4.0 per cent butterfat. The surplus classes are all different. The majority are based on some percentage of the butter market. The Massachusetts Class II is based on the Boston cream price and the Louisville and Wichita prices are a fixed amount per hundredweight.

The following description of classes was given by Dr. Gaumnitz

[4]Denver, Leavenworth, Lincoln, San Diego, Sioux City, Topeka, Wichita.

in a letter of October 12, 1937:

"In the Battle Creek, Denver, Des Moines, Detroit, Dubuque, Kalamazoo, Kansas City, Lincoln, Louisville, Omaha, Quad Cities, Richmond, San Diego, Sioux City and Wichita markets Class I milk means all milk sold or distributed by distributors as whole milk for consumption or use in the Sales area. In Fall River and New Bedford all milk sold or distributed as milk, chocolate milk or flavored milk drinks and milk which is not established as Class II shall be Class I milk. In Fort Wayne and Leavenworth Class I means all milk sold as milk and all milk used to produce cream for consumption as cream. In the St. Louis market Class I means all milk sold as milk, containing not less than one-half of one per cent butterfat. In the Topeka market Class I means all milk used as milk, flavored milk drinks, chocolate milk, creamed cottage cheese and creamed buttermilk, and all milk not specifically reported as Class II or Class III. In the Twin Cities area Class I means all milk purchased from producers except surplus milk.

"In the Battle Creek, Denver, Des Moines, Detroit, Dubuque, Kalamazoo, Lincoln, Omaha, Quad Cities, Richmond, Topeka, San Diego and Sioux City markets Class II means all milk used to produce cream for consumption as cream. In the Fall River market milk specifically accounted for as being used other than milk, chocolate milk or flavored milk drinks or as actual plant shrinkage within reasonable limits shall be Class II. In the Leavenworth market Class II means all milk used to produce flavored milk, creamed cottage cheese and creamed buttermilk; provided that the milk from which only the skimmed milk is used in the production of the above products shall not be included in Class II milk. In the Kansas City, Louisville, and Wichita areas Class II means all milk used to produce cream for consumption as cream, flavored milk, creamed cottage cheese and creamed buttermilk; provided that the milk from which only the skimmed milk is used shall not be included in Class II. In the New Bedford and St. Louis areas Class II means the milk in excess of Class I. In the Fort Wayne area all milk sold as or for the manufacture of condensed milk, evaporated milk, powdered milk, cream for the manufacture of ice cream mix and cheese, except cottage cheese shall be Class II milk. In the Twin Cities area Class II is surplus milk.

"In the Battle Creek, Denver, Des Moines, Detroit, Kalamazoo, Kansas City, Leavenworth, Lincoln, Louisville, Omaha, Richmond, Topeka, Sioux City and Wichita markets Class III means all milk purchased, sold, used, or distributed in excess of Class I and Class II milk. In the Quad Cities area Class III means all milk used to produce evaporated milk and for ice cream mix. In the San Diego area Class III means all milk used to produce ice cream and for ice cream mix, creamed buttermilk, creamed cottage cheese and flavored milk drinks; provided that the milk from which only the skimmed milk is used shall not be included in Class III. In the Fort Wayne area all milk specifically accounted for (a) as being sold, distributed or disposed of other than as Class I or Class II milk, and (b) as actual plant shrinkage not to exceed 3 per cent shall be Class III milk. In the Dubuque area Class III means all milk specifically accounted for (a) as sold, distributed, or disposed

of other than as milk or cream for consumption as cream, (b) as manufacturing loss, and (c) as general plant shrinkage within reasonable limits.

"In the Quad Cities and San Diego markets Class IV means all milk in excess of Class I, Class II and Class III milk."

The market type of pool, with or without base rating was most common, table 2.

Table 2 - Markets Operating Under the Three Types of Pools Authorized by Federal Orders, January 1, 1938.

Market pool	Market pool base rating	Dealer pool
Boston	Battle Creek	Dubuque
Des Moines	Kalamazoo	Laporte
Denver	Fall River	St. Louis, Missouri
Fort Wayne	Kansas City, Kansas	
Lincoln	Kansas City, Missouri	
San Diego	Leavenworth	
Sioux City	Louisville	
Topeka	New Bedford	
Twin Cities	Omaha, Council Bluffs	
	Quad Cities	
	Wichita	

The federal orders are intended to cover markets which cannot be regulated by one state. Federal orders appeared to be equally common to areas within states where state control laws operated and where there was no state control.

MILK CONTROL IN OTHER STATES[5]

New York led the way in establishing a governmental milk price control agency. Her law was effective one month before the authority for federal control was enacted. Eight other states passed laws setting up milk price control in 1933. In 1934 five more states passed control acts and seven followed in 1935. No states adopted control measures in 1936. Georgia joined the control group in 1937.

Ohio, Maryland and Washington are the only states to adopt control of milk prices and not to continue control to this date. The emergency act expired in Ohio July 1, 1935, and although milk legislation has been voted upon at every session of the legislature since then, no act has passed. The Maryland act was passed in 1935. Although no funds were appropriated for salaries or operating expenses, the commission operated for a short time before the act was declared unconstitutional. It was held that the act was in restraint of trade since it set both the price that a milk processor should pay for milk and also the price that he should receive for the sale of it.

The 19 states operating under some type of state control of milk prices on January 1, 1938 are shown in figure 2. The New England and the Middle Atlantic groups were unanimous in the acceptance of control. There are two chief reasons for this. In this northeast section of the United States the concentration of population accounts for a great demand for milk and milk products. Consumers suffer during milk strikes and political leaders emphasize this point in the description

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[5]The data on milk price control agencies in other states were obtained by mailed questionnaires sent to Economists of the Agricultural Experiment Stations in every state.

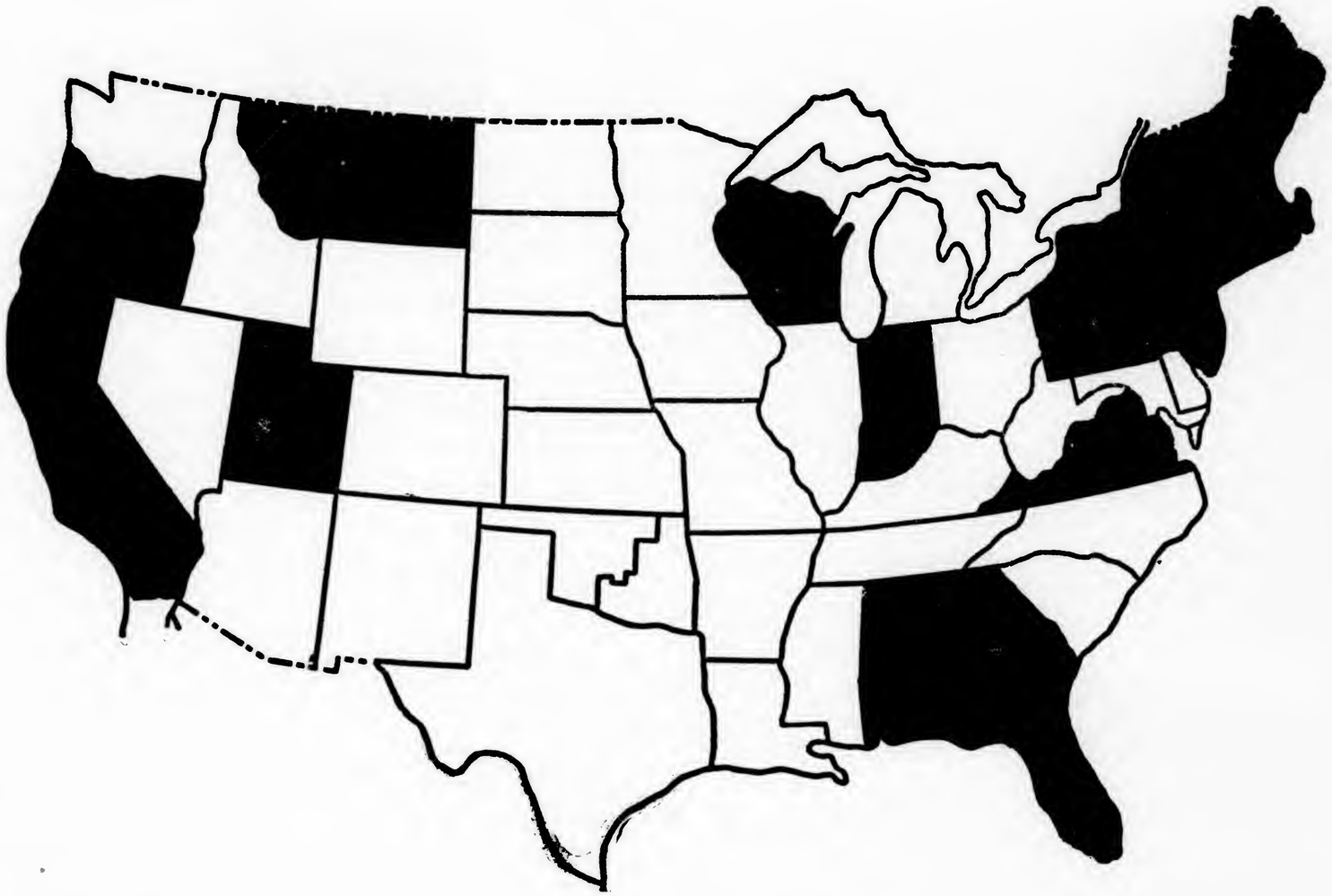

FIGURE 2 - States Providing for Some Type of State Control of the Production and Distribution of Milk, January 1, 1938.

of a control platform. The producers of fluid milk (milk for sale in bottled form) outnumber the producers of milk for manufacturing in those areas adjoining a center of concentrated population. These fluid milk producers hope to maintain their advantage over producers of surplus milk. Government regulation is the method advocated[6].

This theory that control has been adopted and contimues in areas of concentrated population appears to be mullified by the Chicago situation. The densely populated state of Illinois does not have state or federal regulation. On the other hand, Indiana and Wisconsin, definitely surplus areas, have enacted state laws. The explanation may lie in the fact that the Chicago market differs from the northeastern markets in that it is very close to the important surplus areas. In a later discussion will be brought out the difficulty with which differences between prices of Class 1 and surplus milk are maintained in a section where there is normally a large surplus close to market. It is likely that this difficulty has made control of the Chicago market more of a problem.

In 7 of the 19 states now under regulation, milk price control was set up as an emergency measure with fixed expiration dates. In Massachusetts the law expires in 1938, in New Jersey, Alabama, Indiana, Florida and Wisconsin in 1939 and in Georgia in 1941. The others are permanently under control until such time as the legislatures declare the emergency at an end. The length of the emergency in Virginia may be determined either by the governor or by the legislature.

---

[6]If government fixed prices do not maintain the status quo they are open to adverse court decisions based on the constitutional precept of confiscation of property.

The most common agent of administration was a commission or board. Two states exercised control through the State Departments of Agriculture and Markets; two called for producer distributor agreements sanctioned by the State Department of Agriculture; one had a Board of which the commissioner of agriculture was ex officio chairman, and one placed control in the hands of an administrator. Control was administered as follows:

Milk Control Board: New Jersey, Rhode Island, Vermont, Pennsylvania, Virginia, Alabama, Indiana, Florida, New Hampshire, Massachusetts, Georgia, Maine, Oregon, Montana.

State Department of Agriculture: Wisconsin, California.

Producer Distributor agreement sanctioned by the Department of Agriculture: New York, Utah.

Administrator: Connecticut.

The fixing of prices to producers is mentioned in all 19 laws but consumer prices are not to be set under the New York law. Price fixing is mandatory in New Jersey, Vermont[7], Pennsylvania, Alabama[8], California, Florida[9], Utah[8], Massachusetts[10], Maine[8], and Oregon.

State Control laws fall into two major groups which for lack of better names are called the Pennsylvania type and the New York type[11]. This designation makes possible the classification of states

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[7]When public health is likely to be impaired.

[8]In markets where the board has jurisdiction.

[9]As the emergency requires.

[10]Only fixing prices to producers.

[11]The grouping is according to the present New York law. The Pennsylvania act was modeled after the original New York law.

according to the general pattern followed in effecting control.

In Pennsylvania the control covers the whole state and the initiative lies with the commission, while in New York control need not cover the entire area of the state and application for control must come from the industry. An agreement acceptable to a fixed percentage of the producers and/or distributors in the market is enforced against the entire industry under the New York plan.

According to this distinction the states may be grouped as:

Pennsylvania type: Pennsylvania, New Jersey, Connecticut, Rhode Island, Vermont, Virginia, Florida, New Hampshire, Massachusetts, Montana.

New York type: New York, California, Alabama, Utah, Georgia, Maine, Wisconsin.

Indiana's law is characteristic of both types. Producers' prices are set on the Board's initiative but resale price setting shall come only by petition from the industry.

MILK CONTROL IN PENNSYLVANIA

The business of producing or of distributing milk in some parts of Pennsylvania was not a fair game for any man in 1933. The federal agencies under the authority of the Act of May 12 had tried to bring order to the Philadelphia market but their lack of success was widely recognized. The dairy farmers were objecting to prices which netted them as low as 65 cents per hundred pounds for their milk.

The Legal Basis

The Republican administration in possession of the law making agency of the state at that time offered a plan for the control of prices through a state board. There was no opposition on the part of Democratic legislators and with the signature of Governor Gifford Pinchot the bill became a law on January 2, 1934.

The Act created a Milk Control Board of three members who exercised final price-fixing authority. The law obligated the Board to set minimum prices to be paid the producer and minimum resale prices to be charged the consumer and empowered it to set maximum prices. The privilege of fixing maximum limits has never been exercised. Section 18D excepted milk used solely in manufacturing from mandatory minimum price fixing. The Act specifically outlawed rebate practices by which dealers avoid compliance with orders.

The official prices were to be declared to the trade by orders of the Board. The Board was permitted at any time, to "alter, revise or amend" orders with respect to prices to be charged for milk. Such revision as well as the original order was to be preceded by a hearing at which all interested parties might appear.

The control of the milk industry was to be insured by the requirement that milk dealers operate under license. In addition to the authority of revocation of license, the Board might force compliance with orders under threat of fine or imprisonment. License fees were graduated in proportion to volume of milk handled. License fees, together with an appropriation by the legislature, provided the funds for the administration of milk price control. The appropriation from the General Fund for the administration of the act was $100,000 for the duration of the act. The act expired April 30, 1935.

The act contained specific approval of conferences for the dissemination of information among dealers' and producers' organizations. Inter-change of information might be made between individuals or organizations or it might be fostered by a common agent.

The Democratic party, in control of the law-making processes in 1935, rode in on a platform including the approval of state controlled milk prices. When Act 37 expired April 30, 1935, the new Act number 43 was approved.

The new Act repeated the purpose of the first law and also provided for

"......extending the provisions of the Act for a further period of time, prohibiting the sale of milk in certain cases; enlarging and modifying the definition of milk to include ice cream mix, powdered whole milk and powdered skimmed milk; changing, adding to, and increasing license fees and further prescribing the method of computing such fees; requiring all licensees to file bonds or collateral without any exceptions; providing for a supersedeas in certain cases of appeal; conferring certain powers upon the Governor; conferring upon the board certain additional powers over cooperative agricultural associations or corporations, also over milk prices; and authority to establish marketing area enforcement committees; providing new and changing existing notices and penalties; and making an appropriation[12]."

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[12]Act Number 43. Statement of purpose.

It was made obligatory on the part of the Board to "file at its office, with each order issued, a statement in writing of the findings of fact in support of or the reasons for such order". This provision was inserted to meet the criticism of the industry that orders did not reflect the facts presented in hearings. Act 43 limited the price-fixing authority of the Board by requiring the governor's signature to all orders with price-fixing clauses. In Section 18, that part which deals with price setting, the phrase "with the approval of the governor" was inserted six times. In this manner Governor Earle carried out his promise to "personally" supervise the milk industry of the state. The duration of the Act was set at two years and the appropriation from the General Fund for the period amounted to $225,000. License fees paid by dealers were also available.

The major difference between Act 105, approved by Governor Earle April 28, 1937, under which the Milk Control Commission is now operating and the two former laws, is the permanency of the later act. Act 105 makes no mention of an emergency period but recites those premises on which the first laws were enacted and declares that any lessening of the rigidity of the interpretation of the act would be detrimental. Under the new Act the Milk Control Board took on a new name, Milk Control Commission. The authority of the new body differs little from the old but its members are appointed for six-year terms, with a new appointee every two years. A schedule of license fees, bonding provisions and fines for non-compliance is a part of Act 105. The permanent act requires each milk station to exhibit a permit for weighing and measuring issued by the Commission. Milk dealers are not permitted to buy milk at any station not certified for weighing and

measuring such milk. These permits relate to suitable apparatus as well as to the requirement that weighing and testing be done by persons certified by the Commission. The Commission took over from the Board of Health the granting of certification to testers. The law states specifically that cooperative organizations may blend their prices to members providing bargains with dealers are made according to the price schedule set by the Milk Commission. The Act limits the amount which new cooperatives may deduct from returns to producers for expenses. The appropriation of $300,000 covering the period from June 1, 1937 to May 31, 1939 supplements the receipts from license fees. Act 105 was the child of Governor Earle's administration. It rival in the legislature was a regulatory measure not having as wide authority in fixing prices. The administration bill had the better chance to win even if contested but it was handled without much publicity and passed the House when its advocates outnumbered its enemies in attendance.

1. Operation of Milk Price Control Under the First Law

Governor Pinchot appointed the first Milk Control Board on January 24, 1934. He chose as chairman Edward A. Stanford, superintendent of George D. Widener's Erdenheim Farms since 1920. Mr. Stanford had been president and was at the time a director of the Pennsylvania Jersey Cattle Club. John C. Barney, president of the Erie Cooperative Producers Association at the time of his appointment was named a member. The third member, Howard C. Reynolds, had experienced a colorful career. He was associated with the Allied Dairy Farmers Association and was the guiding star in a "rump" organization which had broken away from the Holstein-Friesian Association.

Dissatisfaction was evident on several sides when the announcement of appointments was made. The attitude of the Holstein-Friesian Association is clearly brought forth in the following excerpt from an editorial, "Pennsylvania's Milk Muddle," which appeared in the February 10, 1934 issue of the Holstein-Friesian World.

"Greatly disturbed are many Pennsylvania dairymen over the personnel of the Milk Control Board just appointed by Governor Pinchot under authority of the new law adopted by the state legislature. .....Governor Pinchot named two of the three members from the actual ranks of the Allied Dairy Farmers Association and a third from the western part of the state. Edward A. Stanford, chairman, is superintendent of George D. Widener's Erdenheim Farms, a Jersey breeding establishment. Mr. Widener is understood to have made a substantial cash advance to promote the organization of the Allied Dairy Farmers Association. The second member is none other than Howard C. (Doc.) Reynolds, of Harrisburg, whose very name is anathema to thousands of Pennsylvania Holstein breeders, and whose espousal of the Allied Dairy Farmers Association cause through his "organ" was rewarded with a directorship. The third member is John C. Barney, agricultural editor of the Erie Dispatch Herald."

It is possible that the personnel of the Board was more important in shaping the first orders than was the testimony presented at the hearings.

The first hearing under Act 37 was held at Erie, February 13, 1934. Chairman Stanford in his opening statement spoke of the controversies at similar meetings in other states and emphasized the information-seeking phase of the hearing as most important. There were inquiries concerning the costs of production and the attitude toward the base surplus plan. Some questions were designed to determine the number of farmers represented by the producers' cooperative speakers. Prices reported for 3.5 per cent milk ranged from 65 cents to $1.46.

During the progress of the hearings in the first quarter of 1934 the testimony did not show marked opposition to the basic surplus plan except in the statements of representatives of the Allied Dairy

Farmers Association. The Inter-State Milk Producers Association and the Erie Cooperative Producers Association appeared to favor the control of seasonal surplus by the establishment of bases. The orders promulgated by the Board as a result of these hearings set up different prices for milk used in various classes. The percentage which a producer might sell in the fluid class was limited by General Order No. 6, the first general order.

At the Philadelphia hearing the battle for and against a base surplus arrangement was waged between the Inter-State and the Allied Dairy Farmers Association. Costs data presented at this hearing and at the Erie hearing were based on the figures of cow testing associations sponsored by The Pennsylvania State College.

Hearings were also held in Pittsburgh and in Harrisburg before the first general order was framed. That Order, No. 6, regulated all prices to be paid beginning April 2, 1934. Order No. 3 had previously set prices for the Erie area. Three price schedules were set up by Order No. 6. These prices applied to the Philadelphia milk marketing area, the Western Pennsylvania milk marketing area, and the area not included in these two. The General Order defined four classes of milk; Class 1, that milk used in fluid form; Class 2, milk used as fluid cream, ice cream, homogenized mixtures, milk chocolate, candies, soups and other manufactured dairy products except those included in Classes 3 and 4; Class 3, powdered milk; Class 4, milk made into butter or American cheese. Maximum hauling charges were established. Grade "A" milk was defined and both producer and consumer prices set. Minimum prices to be charged by distributors for fluid milk, fluid cream and buttermilk were fixed.

A store differential of one cent was permitted in those municipalities in which during the month of February 1934 there had been a store differential.

The retail price schedules for cities on or near the border of the state were to conform with the prices in the adjoining state. Dealers in rural communities were allowed to sell milk at prices lower than those fixed by the Control Board after they had obtained permits from the Board.

The order required that producers be paid at least monthly and not later than the fifteenth of the month following delivery of their milk.

Milk dealers were instructed to keep records of milk bought and sold with butterfat tests, prices and classification in which milk was sold. A number of unfair trade practices were declared illegal.

The order set down rules for sales quantity control by designating the period on which sale bases should be calculated and promulgated rules for the establishment and transfer of bases.

Amplification of the requirements for licenses and the definition of bonding collateral was the subject of Order 7.

The second all state general order was No. 8, dated May 24, 1934, and effective June 1, 1934. The boundaries of the Philadelphia milk marketing area were revised and a new schedule of milk classes was established. This time seven classes of milk were defined. Class 1 still represented milk sold in fluid form. The Class 2 definition was broadened to include milk used for sweet cream butter as well as fluid sweet and fluid sour cream. A new class, 2A, was established for milk utilized in the manufacture of milk chocolate, candy and confection-

eries. Class 2B included all milk used in making ice cream, homogenized mixtures, soups, condensed or concentrated milk, powdered whole milk and soft cheeses. Plant loss due to waste and spillage up to 2 per cent could be classed as 2B. Milk used in the manufacture of farmers' pressed cheese or cream cheese was called 2C. Milk that went into butter, except sweet cream butter, was Class 3 and milk made into American cheese was 3A. The Class 1 price was a fixed amount determined by the Board. One price was set for the Philadelphia area and another for the rest of the state. All other prices except 3A in each area were formula prices determined for the month on the basis of the price of 92 score New York butter. The 3A price was regulated by three principal cheese price quotations. The section applicable to Grade "A" contained stipulations as to bonuses to be paid for high butterfat percentages and low bacteria count. The resale price schedule was similar to the previous order. It was provided that a 10 per cent discount might be allowed on relief sales. Under the terms of payment, Order 8 required that dealers' payments to producers should be accompanied by a complete statement "showing the producer's basic quantity, the total amount of milk received, the amount utilized in each class, the percentage of butterfat, and the nature and amount of all deductions made". Order No. 8 repeated the specifications of No. 6 with respect to dealers' records, trade practices and sales quantity control.

Order No. 13 effective July 18, 1934 differs conspicuously only in the omission of the paragraph entitled "Sales Quantity Control." No essential difference was made in the classification or method of computation of prices for "B" milk. The producers' premiums for Grade "A" milk were linked to the spread between the retail prices

for "A" and "B". Order No. 13 was official until August 16, 1935, when Order No. 8 was reinstated by Order No. 16 for all areas except Pittsburgh. The first order bearing H. B. Steele's signature was Order No. 16. Mr. Steele, secretary for the Pittsburgh cooperative, the Dairymen's Cooperative Sales Association, had been appointed August 6, 1934 to fill a vacancy caused by the forced resignation of H. C. Reynolds on July 26, 1934.

The seven classes designated in Order No. 17 were defined in substantially the same terms as in Orders 8 and 13. Producer price schedules were made up in three sets, one for the Philadelphia marketing area, one for the Pittsburgh marketing area and another for the rest of the state. Consumer prices were fixed in four groups, Philadelphia, Pittsburgh and Scranton areas, and all other areas in the state. The section relating to sales quantity control appeared again in Order 17 but the method of calculating the base was new[13].

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[13]Pennsylvania Milk Control Board General Order Number 17.
Sec. 30. Sales Quantity Control for Philadelphia Marketing Area - Starting October 1, 1934, the basic quantity of fluid milk for each producer shall be the higher quantity of:
(a) His present 1934 basic quantity as determined by the previous orders of the Pennsylvania Milk Control Board; or
(b) An amount equal to the average monthly quantity of fluid milk which was produced by his herd and sold in fluid form during the eight months from January 1 to August 31, 1934.
Should the present total basic quantities of all producers selling to any milk dealer be increased by this method, then the new basic quantity for each producer shall be reduced by the same percentage that the milk dealer's total basic quantities have been increased by the above method, so that the total basic quantities of all producers selling to any milk dealer shall not be increased hereby.

Sec. 31. Sales Quantity Control Anywhere in Pennsylvania Except Philadelphia Milk Marketing Area - The basic quantity of fluid milk for each producer selling anywhere in Pennsylvania except in the Philadelphia milk marketing area, shall be the higher quantity of:
(a) The amount equal to the average monthly quantity of fluid milk

2. Operation of Milk Price Control Under the Second Law

The Pinchot appointed members of the Board resigned in January 1935 after the inauguration of George H. Earle as Governor of Pennsylvania. Official General Order No. 23 was signed by the Pinchot Board on January 15, 1935. Although the next effective order was dated January 6, 1936, an order was written in September 1935 but it was recalled because of general dissatisfaction. During that period the act prolonging the emergency control was passed. Governor Earle had appointed Paul O. Sunday of Cumberland County, A. C. Marburger of Butler County, and Charles T. Carpenter of Chester County, all producers, to the Board on February 2, 1935. Mr. Carpenter resigned on April 30, the day Act 37 expired. Mr. Sunday's and Mr. Marburger's terms also ended automatically on that day. These two, however, continued to discharge their duties until reappointed under the new law, June 24, 1935. Three days later they were discharged on complaint that they had accepted salaries for the period during which they were not officially appointed. James S. Pates, the third to be appointed on June 24, was the only member on the Board until July 1 when Charles T. Carpenter and Howard C. Reynolds were reappointed. Mr. Pates was chosen to represent the consumer's interest. This shifting scene may explain why

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13 (Continued)

which was produced by his herd and was sold in fluid form during the two calendar years previous to January 1, 1934. If, however, a producer can show that his established base was at least 20 per cent lower the second year of this period, then he may add one-half of this difference to a second base year for computing his basic quantity of milk to be governed by this Order; or

(b) The 1934 established monthly basic as now on file with any distributor and/or cooperative dairy marketing organization operating in the Commonwealth of Pennsylvania.

the year 1935 passed with little action on the part of the Board.

An order was issued on August 2, 1935, with the stipulation that it become effective September 1. Before that time dealers had registered such opposition that the order was indefinitely postponed. Principal features of the order, No. 24 in original form, were reductions in receiving station and transportation charges, a flat price for Class 2 in place of the formula tied to New York butter, and a total disregard of any production control plan. Three more milk marketing areas were established, thereby making a more detailed division of territorial economic interest.

Upon the posting of the order, dealers immediately threatened pointed opposition such as closing their receiving stations and hauling milk direct to market. Since no method of production control was permitted, they proposed to instruct producers to limit their supply offered or keep one day's milk home each week. The difficulty in keeping a fixed price for cream in line with the market price was recognized and the possible loss of the market to Pennsylvania shippers was considered.

The proposed method of calculating the Grade "A" price embodied material changes. The premium for "A" milk was set at a fixed amount for each one cent by which the "A" retail price exceeded the "B" retail price. The bacteria bonus was removed and the butterfat differential reduced from six to four cents for one-tenth per cent butterfat above 3.5 per cent.

In the months following the recall of Order 24 hearings were held several days a week in an effort to remedy the faults and make the order acceptable to the industry. During this period a group of

dealers in the Pittsburgh district paid farmers a price lower than that set by the Control Board. The dealers justified their position by referring to the tardy attention of the Board and for the same reason producers did not object stremuously. A revised order was sent out to interested persons on December 19 and at the same time notice was given that there would be a hearing to discuss the order on December 23. The object was to permit recommendations before the effective date. There was plenty of opposition to the order as it was written, both from dealers and producers. Dealers were unanimous in their condemnation but the producers were divided. Those opposed contended that some features were "economically impractical."

The provisions around which contention centered were the classification of fluid cream with fluid milk into Class 1, a price for cream out of line with market prices, an increase in consumer cream prices, and a reduction of 10 cents per hundred in the price of direct shipped milk in the Philadelphia Area.

Order No. 24 as amended became effective January 16, 1936. A few of the points of difference were ironed out before the order was finally made effective. There were several classification changes, milk for ice cream was taken out of Class 2B and made Class 2, while fluid cream which had been in Class 2 was designated as Class 1A. The classification names for milk used in butter and in American cheese were changed. Some persons felt that the schedule should have been limited to three or four classes. The reduction of the Philadelphia f.o.b. price and the increase in receiving station prices were strongly contested but they became part of the order. The disparity in the wholesale price between market cream and Pennsylvania cream purchased

from producers remained in the final form. There was also an increase in resale prices of cream. Retail prices of Grade "B" were divided on the basis of butterfat content; milk over 4 per cent was to sell for 12 cents per quart while that 4 per cent or under was set at 11 cents. Order No. 24 divided the state into nine areas.

The next change of order came in June of 1936. The general phases of Order 24 were not modified by Order No. 25. Area 8 was redefined to include area 9 and there was a slight change in the definition of the Southwestern marketing area. The order increased prices of milk to producers and in some instances to consumers.

Two supplementary orders were written during this period. Order No. 26, effective April 23, 1936, was a definition of the types of bonds acceptable as surety in connection with applications for milk dealers' licenses. The adjustment of bulk cream and ice cream mix prices semi-monthly was provided by Order 27.

The terms of appointment of the Board members expired August 6, 1936 and there was no Board until August 20 when Governor Earle reappointed Howard C. Reynolds. Howard G. Eisaman of Erie County was named chairman and John J. Snyder the third member. Mr. Eisaman had been director of the Pennsylvania Farm Show and Mr. Snyder was a producer-distributor and former sheriff of Northampton County. Mr. Reynolds had been a member of the Board for a short time under the Pinchot regime.

The new Board sent out notices of hearings to be held during August and September. They met at Harrisburg August 27; Philadelphia, August 31; Pittsburgh, September 3; Pottsville, September 14; Easton, September 15; Scranton, September 16; Johnstown, September 18; Erie,

September 21.

In October 1936, the general program for milk price control in the entire state was set forth in two orders, No. 28 and No. 29. Order No. 28 was applicable to all the areas except Pittsburgh. The provisions for the Pittsburgh area were included in a separate order, No. 29.

The number of areas was increased again by Order 28 for the purpose of subdividing the existing areas. Both farmer and retail prices were increased. The Scranton and Johnstown areas were put on a 13 cents per quart market with a $2.88 per hundredweight price to producers for 3.5 per cent Class 1 milk. The Philadelphia producers' Class 1 price was also $2.88 but the retail figure was only 12 cents. A 12 cent market prevailed in southwestern Pennsylvania, Schuylkill County, Erie and Harrisburg and the price to farmers was fixed at $2.75.

The price in the state-wide area was advanced to 11 cents retail and $2.38 to farmers. These prices appeared to meet the demands of producers but there was some criticism that the increase was unjustifiably tardy. As far back as June 1936 the Inter-State Milk Producers Review had carried the headlines, "Price Increase Is Over-Due -- Inter-State Asks For Rise In Mid-Summer".

In the Pittsburgh area the Dairymen's Cooperative Sales Association acted to raise the price of milk in the area without waiting for the Control Board action. The Dairymen's Cooperative Sales Association prices as adopted July 16, 1936 were not legalized by a Board order until October. The Pittsburgh group also took the cream situation into its own hands. Out-of-state cream was jeopardizing the market and the Association asked the Board for an adjustment of prices.

"The conditions facing our cream outlets were laid before the chairman of the Milk Control Board and also before the entire Milk Board at a hearing in Pittsburgh two months ago. We were assured that a revised order would be issued on May 8. This order failed to materialize. In order to save the Association's market for bottling cream and ice cream, the directors called a conference with producers at Pittsburgh and placed before this group the situation in the market. An analysis of the market's requirements for ice cream supplies and for bottling cream revealed that the Association producers were getting only about one-half of this business. Western cream suppliers delivered carloads of their product into our markets[14]."

The f.o.b. prices fixed by Order 29 for the Pittsburgh area were a ratification of the prices prevailing in the market, those set by the Dairymen's Cooperative Sales Association on July 16. The Milk Board lowered the country receiving station differentials on Classes 1 and 1A. This meant a slight increase in the country station price.

The retail price was set at 12 cents per quart for Grade "B" milk and a 1 cent per quart store differential was approved.

In October 1936 the Dairymen's Cooperative Sales Association again took the initiative in fostering a price change, this time a rise. The Board took action in December. Order No. 33 was approved by Governor Earle December 14 to become effective on the 21st. The request was based on a brief setting forth the increase in feed prices due to short crops and the general improvement in business conditions. The Grade "B" Class 1 price was raised from $2.65 per hundredweight to $3.03, and the retail price was advanced to 13 cents per quart. It was argued that the elimination of the store differential made the higher price possible. The price for half pints of light cream was raised 1 cent on the basis that dealers had not been recompensed for the advance in Class 2 prices which took place on July 16. The classification of

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[14]Dairymen's Price Reporter, May 1936.

bottled cream was reduced to two classes, "light" and "whipping". It had formerly been listed as "light," "medium," and "heavy".

An order governing "A" milk was to have been effective on December 21 and a new order for Philadelphia, No. 32, was to have been in force January 1 but both orders were suspended before the effective dates and Order No. 28 remained the basis for payments. Much dissatisfaction was voiced concerning the state control of the Philadelphia market during the Fall of 1936. The United States Department of Agriculture made a study of the interstate problem but no further action was taken until a federal hearing was called on March 17, 1938.

Orders No. 34 and No. 35 for the Johnstown-Altoona and Schuylkill and Scranton areas became effective December 21, 1936. Both areas remained on a 13 cents per quart market and Grade "B" Class 1 milk was to be paid for at the rate of $2.88 per hundredweight, 3.5 per cent.

Order No. 36 was written to meet the demands for new prices in the Southwestern milk marketing area, the Lehigh marketing area and the Harrisburg area. This order became effective January 1, 1937. A new order governing the production and marketing of Grade "A" milk was among those made effective December 21. The order was suspended for the Philadelphia area but remained in force throughout the rest of the state.

A new order, No. 38, dated December 23, 1937 separated the Central milk marketing area, the Lancaster area and the York area from the state-wide area. That order never became effective.

A new measure governing prices and quality premiums for Grade "A" milk became effective February 15.

Order No. 28 in the Philadelphia milk marketing area was superseded February 15, 1937 by Order No. 40. No change was made in the f.o.b. Class 1 price but the new method of calculating the receiving station charges made some changes in prices at receiving stations; some were increased and some decreased. The retail price remained 12 cents per quart, but Grade "B" milk testing over 4 per cent butterfat was to be sold at 13 cents. With "A" milk, too, the grade was divided on butterfat content, and 1 cent more was charged for milk testing over 4.3 per cent.

In the Pittsburgh area Order 33 was amended by No. 42 on April 1, 1937. The amended sections reduced Class 2 and Class 3 prices and the minimum wholesale prices for fluid cream and ice cream sold in bulk.

3. Operation of Milk Price Control Under the Present Law

The terms of the Milk Board members terminated with the expiration of Act 43, April 30, 1937. Governor Earle announced the appointments to the Milk Control Commission May 4, 1937. Howard G. Eisaman and John J. Snyder were reappointed and Robert E. Pattison, Jr. of Chester County replaced Mr. Reynolds. Mr. Pattison's attitude was expected to reflect the consumers' interest in the price-fixing machinery.

The effective orders written under Act 43 were continued until the new commission prepared a set of orders. Of the nine superseding orders which became effective June 2, 1937, six were special orders applying to specific areas; the other three were general orders covering the whole state. The order governing prices and bacteria bonuses for Grade "A" milk, A-7, is an exact copy of the last order

which the previous Board had phrased to govern "A" milk.

The general rules for the conduct of business in every area of the state were contained in one order, B-1. This order stipulated that all milk not accounted for in milk dealers' records should be presumed to be Class 1 and producers should be paid at that rate. It prohibited transportation charges in excess of the rates set by the Public Utility Commission of Pennsylvania or the Interstate Commerce Commission or the actual cost paid by the dealer. There appears to be no recognition of the difficulty involved in determining such actual cost. The minimum charge which one dealer must collect when selling bulk unpasteurized milk to another dealer was set at 16 cents per hundred pounds. Conditions were described whereby bulk sales of milk might be made in case of an emergency which might leave a dealer with a large volume of milk on his hands.

By the same order dealers were required to accompany wholesale sales with sales invoices. Section 6 prescribed the rate of payment to be made for milk to be resold in other states. The paragraph is not enforceable. Butterfat content was made the basis on which the percentage of utilization in each class should be calculated. Milk in inter-dealer sales is considered Class 1 unless its ultimate use in some other form can be proved. When a dealer receives part of his milk from producers and part from other dealers the milk received from producers must be given precedence in the better priced classes. In like manner, milk purchased from producers in Pennsylvania must be given precedence over milk received from producers outside the state.

The order states the terms of dealer payments to farmers. Producers must be paid twice monthly with not more than 15 days ensuing

between the last day of delivery and the date of payment. Each dealer is instructed to make a complete account of all milk purchased and to render such a statement to all producers supplying him. Records which dealers shall keep are listed and acts which constitute fair and unfair trade practices are defined.

The Commission set forth rules for the conduct of Milk Marketing Committees in this order. A Committee is a voluntary cooperative group which has united to present the farmers' case at hearings and to assist in the enforcement of orders.

A second general order, B-2, deals with the subject of milk dealers' financial and statistical reports. The order contains requirements for annual and monthly reports to be submitted to the Commission. This section has been violated flagrantly. It has been impossible to obtain complete or consecutive reports.

The prices set under the Commission's first orders for specific areas were all based on 4 per cent milk. Class 1 prices were changed in some secondary markets but for the most part they remained the same. The formula for Class 2 milk was modified so that the price increases gradually after the price of 92 score New York butter passes 33-1/3 cents per pound. The Class 3 price in all areas was lowered 10 cents per hundredweight. A new marketing area was established in Centre, Clearfield and Huntingdon Counties.

The Commission called a hearing for June 16, 1937 at which the subject of discussion was limited to prices for classes other than Class 1. The orders arising out of this hearing advanced the price for Class 2 by 25 cents per hundred pounds. The order was nullified before it was to become effective. However, a subsequent order effective

July 16 raised the price 22 cents. These orders did not apply to the Pittsburgh market.

During the last half of 1937 attention in the Philadelphia market was diverted from state control to federal control. Leaders of the Inter-State Milk Producers Cooperative turned to the possibility of a federal order under the Dairy Section of the Agricultural Adjustment Administration to solve the problem of the varying price schedules in the states adjacent to Philadelphia.

During this period the Commission encountered difficulties in the Pittsburgh market. A hearing was called on August 17 at the request of the dealers in that area. The distributors claimed that their margin on fluid milk was too low, especially since their costs had been increased by a forced increase in milk men's wages and social security taxes. An increased margin could have been obtained by an increase in the price to consumers or by a decrease in the price to producers. The producers objected stremuously to a lowering of their price and the dealers replied that they would be forced to purchase tank milk from other sources. The Commission took action in the form of an order effective October 1, 1937 which reduced the Class 1 price by 6 cents. This was not at all what the dealers demanded. The findings of fact issued with the order stated that the Commission's study of milk dealers' operations contradicted evidence presented at the Pittsburgh hearing. According to the Commission's study of 50 dealers in the Pittsburgh area engaged in fluid milk and milk manufacturing business in 1936, the average earnings on unadjusted investment were 6.9 per cent. The Commission attempted to discourage the purchase of tank milk by raising the price 21 cents per hundred pounds over that for direct

deliveries from within the area. Dealers had found it more profitable to buy the actual supply needed in tanks from small producers' cooperatives rather than to purchase it in small lots from farmers close at hand.

The dealers were not satisfied with this order and 30 Pittsburgh dealers appealed from the order to the Dauphin County court on October 20, 1937. The court granted the petition and issued a supersedeas on November 26 retroactive to October 1, fixing the price at $2.92 per hundred pounds, 27 cents under the Commission order.

On December 17, the Milk Control Commission opened a hearing in Pittsburgh and the hearing continued into the new year with recesses for the holidays. During this period dealers were for the most part paying at the $2.92 rate and making provision by bond to cover a reversal of the decision.

4. The Court Decisions

The legal pattern of milk price control has been described but that pattern has been snipped and patched by court caprice. The volumes of written words are but a small part of the law. Words may be interpreted by judges to mean the direct antithesis of their original thought.

In the case of Rohrer's Med-O-Farms Dairy versus the Milk Control Board the judgment of the lower court was that the Milk Control Act was constitutional. The decision was reversed in the Superior Court where the majority of the judges declared the law violated the "Due Process" clause and the first section of the Bill of Rights of the State Constitution. In his dissenting opinion Judge Keller states:

"To say that the "Due Process" clause in our Bill of Rights, or the declaration that all men have certain inherent and indefeasible rights, among them those of acquiring, possessing and protecting property, prevents the state from dealing with a situation of this nature, with consequences so fraught with harm and danger to the general public, is carrying its meaning far beyond what anyone contemplated when it was first promulgated, or even when last adopted as part of our present Constitution."

The Supreme Court upheld the opinion of the minority of the Superior Court bench. The law was declared constitutional by the highest test within the state. The constitutionality of the law had already been proved with respect to the Federal Constitution when a similar act by New York State was upheld.

In the case of the Milk Control Commission versus Eisenberg Farm Products, a Pennsylvania corporation, the practices which become a part of interstate commerce are defined:

"Conclusions of Law"

"1. All of the transactions of the defendant including the purchase of milk from the Pennsylvania farmer-producers, within the Commonwealth of Pennsylvania, constitute interstate commerce.

"2. The regulations sought to be imposed upon the defendant by the plaintiff, including the taking out of a license as provided by the Act of April 26, 1937, posting a bond conditioned for the payment of all amounts due to farmers under the Act and under orders of the Milk Control Commission, and to pay such milk prices to the farmers as is required by the Commission would constitute a regulation of and a burden upon interstate commerce.

"3. The defendant, —— is not subject to the jurisdiction or control of the Milk Control Commission of the Commonwealth of Pennsylvania in the matters complained of by the plaintiff."

This decision of the court of Common Pleas of Dauphin County handed down in 1936 may not fix the law for all time. Mr. Harry Polikoff, Deputy Attorney General, mentioned the probability of an appeal.

The effectiveness of the act was severely hampered in 1937

by an adverse decision of the Dauphin County court. The court declared the price which a Commission order required dealers to pay farmers was "confiscatory". The court set aside that price and determined one on its own judgment. At a later period the court changed its fixed price. These operations of the court appear to be an usurpation of authority assigned to the Milk Control Commission.

The Problems Arising From Milk Price Control

There are fundamental questions which may be asked concerning the advisability of adopting a measure of social control. However, when a control program has been accepted and inaugurated there are still problems of method and purpose to be considered.

Dr. Joseph S. Davis, Director of the Food Institute Research at Stanford University, has outlined the criteria on which the judgment of a control program may be based[15]. He would ask first if the correct analysis had been made of the situation to be met, then whether the underlying assumptions of the policy were correct. In observing the program once it had been set up he would ask how far the intended results had been achieved, whether the secondary results were welcome or tolerable, and whether the net result was worth the cost[16].

The following pages which are devoted to specific problems of milk control have been developed with these appraisal criteria in mind. The mechanics of constructing an order, the division of the state into areas, the study of prices fixed and the recognition of

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[15] Davis, Joseph S. Observations on Agricultural Policy. Journal of Farm Economics, November 1937. Page 861.

[16] Emphasis added by the author.

production control features by the Board will be examined.

1. The Development of an Order

The order has been designated as the legal organ which the Control Commission shall use to convey its commands to the milk industry. The routine by which an order is conceived, written and made effective is a problem in itself.

The law provides for hearings at which interested parties may present their cases. Such hearings must precede the formulation of an order. The Commission may act on its own initiative to start the machinery of a new order, or the hearing may be the outcome of a petition on the part of producers or distributors. The Commission is not required to hold a hearing even though requested to do so by petition. The necessity for a hearing is judged by the Commission.

Notices of hearings are released to the Associated Press and to International News Service. Interested persons are informed directly. The hearing is opened by a member of the Commission and all who wish to testify indicate their intention on form cards. Hearings are open to anyone who cares to speak and the length of address is not limited, although the chairman may specify some particular questions for consideration and restrict discussion to these questions only. All testimony is recorded by a stenographer employed by the Commission and is on file at the Harrisburg office. Witnesses must swear to testimony which is to become a part of the record.

Relevant testimony and reasons for action must be prepared for a document called "Findings of Fact". "Findings of Fact" must be certified by each member of the Commission present at the hearing and

must be filed for public reference. If the hearing brings forth facts calling for action, an order is framed by the Commission members with the advice of their legal counsel. Orders must be posted six days before the effective date and must be mailed to dealers three days in advance of the effective date.

The smooth machinery of the law has slipped a cog now and then. Chairman Stanford emphasized the information-seeking phase of the hearing at the first meeting at Erie, February 13, 1934. He cited cases of hearings by other agencies which had added pepper to the milk stew. This purpose was forgotten, it seems, at the first Philadelphia hearing when the principal item of business was hurling accusations of one sort or another.

There is no arrangement for agreements between producers and distributors outside the hearings, but testimony presented at the Harrisburg hearing on February 18, 1937 indicated that some compromise had been attempted. Representatives of producers and dealers and the Board members appeared to favor these preliminary efforts[17].

The Commission interprets its responsibility for obtaining information as more than listening at hearings. According to Chairman Eisaman, the Board does not sit as a board of jurors restricted to the

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[17] Milk Control Board of the Commonwealth of Pennsylvania. Harrisburg hearing, February 18, 1937. Mr. Stewart Senft, representing farmers of York County, reported that he had tried to get the dealers to confer and draw up a tentative order to be presented to the Board for approval. The dealers refused to cooperate. Mr. Snyder (of the Board) brought out the fact that the Board had had similar difficulty in requesting producer organizations to confer. Mr. James Sutcliffe, representing dealers, admitted that some request had been made for a conference but he said he did not consider the invitation official. Mr. Sutcliffe spoke in favor of such a conference.

immediate testimony in the formation of orders. For example, at the hearing prior to issuing Pittsburgh Order A-18, the facts presented by dealers were not considered representative since the dealers' costs used represented two of the most inefficient dealers in the area. The Commission proceeded to check the facts through their own figures, and the order was based on the records the Commission obtained.

Dealers at this Pittsburgh hearing asked for immediate action because they insisted they were losing money each day the order was delayed. The Inter-State Milk Producers Review carried several articles during the summer of 1936 in which the Board was criticized for delayed action. It has been possible to trace the lapse of time between hearings and the subsequent orders for each of the orders promulgated under the permanent act, table 3.

If the purpose of the hearing is to obtain timely information for the determination of just prices, it is altogether possible that the means defeat the purpose. Timely information in March may indicate a movement of prices contrary to what is needed in June. The comparative celerity with which orders have been issued since July suggests a recognition of the necessity for quicker action. The six day notice required before effectiveness is partly responsible for the delay. It is not probable that this period of notice could be decreased.

Complete understanding of the local situation should not be sacrificed for speed. A new order which does not help the situation is no improvement. The efficiency of the Commission could be materially increased by a reorganization of personnel. First, the functions carried out by the Commission members themselves should be limited to reviewing and administering orders. The compilation of evidence and the

Table 3 - Length of Time Intervening Between Date of Hearing and Effective Date of Subsequent Order, for the First Eighteen Orders Issued by the Milk Control Commission.

Order number	Effective date	Days elapsed between hearing and effective date*
A-1	June 2, 1937	90
A-2	June 2, 1937	83
A-3	June 2, 1937	83 - 104
A-4	June 2, 1937	96 - 103
A-5	June 2, 1937	97
A-6	June 2, 1937	91 - 103
A-7	June 2, 1937	83 - 104
B-1	June 2, 1937	83 - 104
B-2	June 2, 1937	83 - 104
A-8	June 2, 1937	96 - 103
A-9	Never effective	-
A-10	July 16, 1937	30
A-11	July 1, 1937	15
A-12	July 1, 1937	15
A-13	July 1, 1937	15
A-14	July 1, 1937	15
A-15	July 16, 1937	30
A-16	July 16, 1937	30
A-17	July 16, 1937	30
A-18	October 1, 1937	51

*When more than one hearing was held for an order the time elapsed is expressed by range.

framing of orders should be handled by a corps of technical workers under the supervision of a milk marketing specialist. This specialist in milk marketing of course should be chosen on merit and his discharge for anything but incompetency forbidden. He would be responsible for interpreting policies and for coordinating the many orders to fit the general policy.

Another change needed is the definition and adherence to some general policy. All through the development of the law in the form of orders there has been lacking a guiding sense of direction. New features have been added without consideration of the repercussions or the

long time effect.

No great advances in efficiency and type of administration can be expected as long as the Commission is hampered by the incompetency of employees who represent political patronage. The accomplishments of the Commission to date in the fields of audits and litigation can be directly attributed to the superior personnel in these departments.

2. Area

The 147,629 Pennsylvania farms on which cows were milked in 1934 cannot be dealt with as a single class. There are fundamental differences which divide the types of farms that make up the fifteen and a half million acres of farm land in Pennsylvania. Differences in topography, soil, climate, location of markets and established marketing routes form areas of vastly varied production and marketing problems. In determination of milk prices each area with its own characteristics should be dealt with as a separate unit.

Numerous types of farming are practiced in this state. The differences are a result of variations in topography, soil and growing season. "The elevation varies from nearly sea level in the southeast to peaks of over 3,000 feet in the south central part[18]." The southeastern level tract, the Allegheny plateau, the valley farms of the central and northern sections and the northwestern level areas cause basic differences in farming practices.

The northwestern and the southeastern lowlands enjoy comparatively long growing seasons. The climate is tempered in both cases by

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[18]The Pennsylvania Agricultural Experiment Station Bulletin No. 305, page 5.

the proximity of large bodies of water. The plateau and mountain regions have shorter growing seasons. Rainfall and soil characteristics also vary throughout the state. In addition to these natural factors of difference the availability of market outlets is important in determining the type of farming.

The state has been divided into 25 "type of farming" areas by Emil Rauchenstein and F. P. Weaver[19]. It would not be logical for a price control agency to group the Philadelphia Truck Crop area with the Allegheny Mountain Self-sufficing area. The Northeastern Dairy section has its own problems; the Anthracite Coal area its unique features.

The marketing routes in Pennsylvania lead to three primary centers of consumption, Philadelphia, Pittsburgh and New York, and to numerous secondary markets. The small markets are important. "Nearly 60 per cent of the non-farm population live in 102 incorporated places each having a population of 10,000 or more[20]." These three city markets are supplied both by direct shipped milk and by milk concentrated at receiving stations. The country plant areas supplying these cities overlap each other[21].

In addition to the fluid outlets there is a manufacturing outlet for Pennsylvania milk. Dealers who manufactured the greater part of the milk they purchased handled 19 per cent of all milk bought by Pennsylvania dealers in April 1934[22].

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[19] The Pennsylvania Agricultural Experiment Station Bulletin No. 305.

[20] The Pennsylvania Agricultural Experiment Station Bulletin No. 327, page 6.

[21] Idem. Page 9.

[22] Idem. Page 12.

The cost of inspection of milk when producers are located far from the consuming center is a limiting factor in the determination of a milk shed. It is possible that the extra cost of inspection at a distance is more than offset by high land values and increasing labor costs near consuming centers.

The factors heretofore mentioned have been those which determine whether a farmer can profitably engage in milk production and what market he supplies. A control agency must also recognize underlying differences which make it necessary for a dealer in one area to absorb more spread than in another. The purchasing power of the consumer is also an influential item.

Dr. Leland Spencer has done the most comprehensive published work in costs of distribution[23]. He found that dealers' operating costs expressed as a per cent of sales were lower in up-state New York cities than in the City of New York. The largest single item of expense is that of delivering and selling. It is to that item then that most attention should be turned in an effort to increase efficiency. Physical barriers to delivery, the unionization of labor and the keenness of competition give rise to variations in selling and delivery costs.

For very definite reasons consumption per capita and total consumption vary within the state. Milk consumption is closely related to income per family. Although the differences are not great within the higher income groups, there are marked differences between the per capita consumption of the poor income groups and that of the middle or

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[23]Spencer, Leland. Cornell University. Report to the New York State Milk Control Board. March 24, 1934.

well-to-do groups. Nationality is another factor which affects milk consumption. The per capita consumption of milk by Jews in Philadelphia in 1929 was higher than that of native whites or of Italians and colored races. Both the Italians and colored races reported very little use of milk[24]. In determining a retail price these factors are important and the area limits must be set with the description of the market in mind. In the Philadelphia metropolitan market the demand for Grade "A" milk is far greater than in any other part of the state.

The Pennsylvania Milk Control Board and the Milk Commission have recognized these difficulties and the shifting of boundaries that were first set up shows that they have discovered faults in the location of some of the boundaries. The areas described by every order of the Board and of the Commission are shown on maps on pages v to xv of the Appendix. The areas were determined in accordance with testimony presented at hearings.

The importance of considering a number of determinants in the definition of areas for fixing milk prices has been outlined in the preceding pages. But principles and theories are not the most practical guides for setting up usable boundary areas. It appears necessary for the purpose of administration that the boundaries of political units be followed. The township unit, while not perfect, appears to be the only usable unit. The dissimilarities within one county will be described in the ensuing paragraphs. Centre County has been chosen to illustrate this point, partly because it supplies so many markets and partly because the data are readily available.

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[24]Pennsylvania Agricultural Experiment Station Bulletin No. 245.

The eastern townships of Centre County belong in the Appalachian Valley Dairy section. The western and northern townships are a part of the Allegheny Mountain Part-time and Self-sufficing areas. The best interests of the farmers or of the consumers cannot be satisfied by grouping these townships into one administrative area. The dairy problem to the farmer who keeps a cow to fill the family milk bucket is far different from the problem which faces the farmer who depends upon his herd for a cash income.

Figure 3 gives some indication of marketing areas within the county. The producers are considered a fair sample for the purpose of showing usual movements of milk. The lack of data for the western and northwestern townships is representative for the reason that the area is not favorable to dairy farming. The lines connect producers' farms and the plants to which milk was delivered. County and township boundaries are shown for the purpose of illustrating how easy it is for milk routes to cross political barriers. Farmers in Ferguson Township sold to Supplee-Wills-Jones at Huntingdon, to Sheffield Farms plant at Bellefonte, to a Tyrone dealer, and to local dealers in State College. Producers selling over county boundaries linked Centre County with Clinton, Blair and Huntingdon Counties.

In Centre County there is not only the problem of country plant and local retail milk produced on adjoining farms but the country plant milk is routed to two primary markets as well as to secondary markets. The eastern half of the county is definitely a part of the New York shed, but in the southwestern townships the New York market competes with the Philadelphia and Altoona markets. For the purpose of justifying producer prices it seems necessary to make some division of

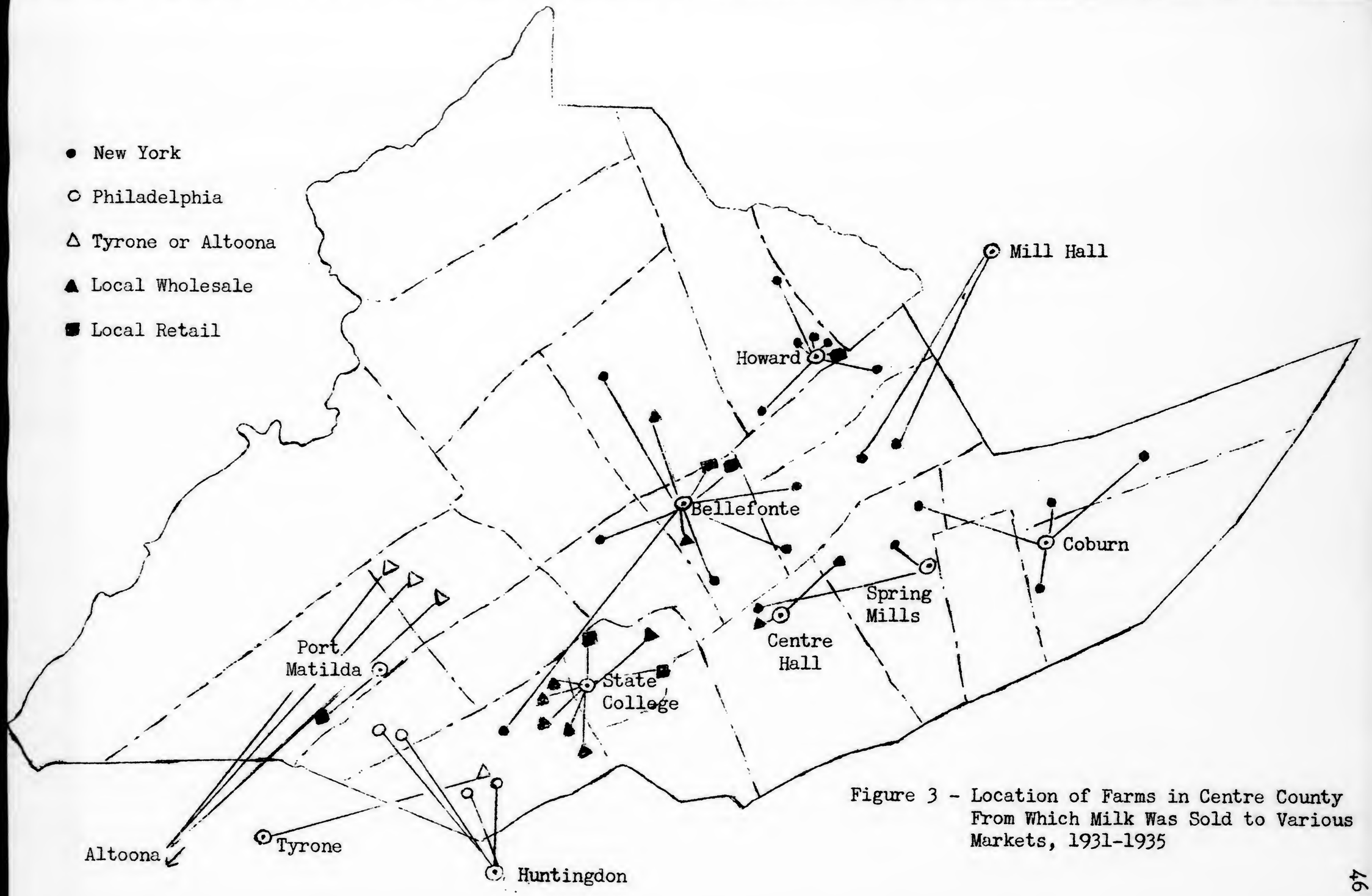

Figure 3 - Location of Farms in Centre County From Which Milk Was Sold to Various Markets, 1931-1935

the county into two areas, one affected by the New York market and the other influenced by the Philadelphia and Altoona buyers. The boundary appears to be the Tussey mountain ridge in Ferguson Township and the township boundary between Patton and Benner, and Huston and Union Townships.

Centre County does not illustrate the problems of a metropolitan consumers' market. The local markets are all under 5,000 population and are served by producer-distributors or distributors who purchase from less than a dozen producers. However, the fact that the consumer is so close to the producer makes a problem of another type. Can there ever be satisfaction among farmers when one enjoys the privilege of the local market while the other must accept manufacturing or country plant prices? This is perhaps the greatest point of contention in the confusion of price arguments. It would seem that the perfect division of the state into areas affected by similar economic interests is impossible. Township boundaries present a better working basis than the county. A detailed study of areas would be helpful to the Commission.

In conclusion to these statements setting forth some differences in area it seems fitting to describe the manner in which the Control Boards have interpreted these differences. They have set up price schedules for the various areas in the state. The Philadelphia, Pittsburgh and State-wide areas are compared in table 4. The price for fluid milk in the State-wide area is consistently lower than in either of the metropolitan areas. As between the two cities there seems to have been a reversal of opinion. Up to 1937 the price for fluid milk in Philadelphia was higher than the Pittsburgh price, but consistently

TABLE 4 - Dealers' Buying Price for 3.5 Per Cent Grade "B" Milk f.c.b. in the Major Classifications at Three Markets Since the Inauguration of Milk Control, (In Dollars per Hundred Pounds).

	Milk used as								
	Fluid milk			Fluid cream			Butter		
	Philadelphia	Pittsburgh	State-wide	Philadelphia	Pittsburgh	State-wide	Philadelphia	Pittsburgh	State-wide
1934									
April	$2.60	$2.15	$2.33	$1.70	$1.70	$1.70	$ .99	$ .93	$ .99
May	2.60	2.15	2.33	1.70	1.70	1.70	1.03	.96	1.03
June	2.60	2.24	2.24	1.41	1.41	1.41	.87	.87	.87
July	2.55	2.24	2.24	1.39	1.39	1.39	.86	.86	.86
August	2.55	2.36	2.24	1.51	1.68	1.51	.96	.96	.96
September	2.60	2.48	2.24	1.35	1.68	1.35	.90	.95	.90
October	2.60	2.48	2.24	1.14	1.68	1.39	.94	.94	.94
November	2.60	2.48	2.24	1.23	1.78	1.48	1.03	1.03	1.03
December	2.60	2.48	2.24	1.32	1.85	1.53	1.08	1.08	1.08
1935									
January	2.60	2.48	2.24	1.50	1.99	1.65	1.20	1.20	1.20
February	2.60	2.48	2.24	1.57	2.07	1.72	1.27	1.27	1.27
March	2.60	2.48	2.24	1.41	1.88	1.56	1.11	1.11	1.11
April	2.60	2.48	2.24	1.51	2.00	1.66	1.21	1.21	1.21
May	2.60	2.48	2.24	1.26	1.70	1.41	.96	.96	.96
June	2.60	2.48	2.24	1.15	1.57	1.30	.85	.85	.85
July	2.60	2.48	2.24	1.14	1.55	1.29	.84	.84	.84
August	2.60	2.48	2.24	1.17	1.60	1.32	.87	.87	.87
September	2.60	2.48	2.24	1.22	1.65	1.37	.92	.92	.92
October	2.60	2.48	2.24	1.28	1.73	1.43	.98	.98	.98
November	2.60	2.48	2.24	1.43	1.90	1.58	1.13	1.13	1.13
December	2.60	2.48	2.24	1.49	1.98	1.64	1.19	1.19	1.19

TABLE 4 - (Continued) Dealers' Buying Price for 3.5 Per Cent Grade "B" Milk f.o.b. in the Major Classifications at Three Markets Since the Inauguration of Milk Control, (In Dollars per Hundred Pounds)

	Milk used as								
	Fluid milk			Fluid cream			Butter		
	Philadelphia	Pittsburgh	State-wide	Philadelphia	Pittsburgh	State-wide	Philadelphia	Pittsburgh	State-wide
1936									
January	$2.55	$2.43	$2.22	$1.66	$1.90	$1.73	$1.21	$1.21	$1.21
February	2.50	2.38	2.19	1.80	1.80	1.80	1.29	1.29	1.29
March	2.50	2.38	2.19	1.80	1.80	1.80	1.13	1.13	1.13
April	2.50	2.38	2.19	1.80	1.80	1.80	1.08	1.08	1.08
May	2.50	2.38	2.19	1.80	1.80	1.80	.96	.96	.96
June	2.50	2.38	2.19	1.80	1.80	1.80	1.04	1.04	1.04
July	2.50	2.38	2.19	1.80	1.80	1.80	1.17	1.17	1.17
August	2.50	2.38	2.19	1.80	1.80	1.80	1.24	1.24	1.24
September	2.50	2.38	2.19	1.80	1.80	1.80	1.22	1.22	1.22
October	2.69	2.52	2.28	1.76	1.92	1.76	1.27	1.26	1.27
November	2.88	2.65	2.38	1.76	2.02	1.76	1.41	1.41	1.41
December	2.88	2.85	2.38	1.79	2.02	1.79	1.44	1.40	1.44
1937									
January	2.88	3.05	2.38	1.79	2.02	1.79	1.44	1.40	1.44
February	2.88	3.05	2.38	1.79	2.02	1.79	1.44	1.40	1.44
March	2.88	3.05	2.38	1.85	2.02	1.85	1.50	1.45	1.50
April	2.88	3.05	2.38	1.73	2.02	1.73	1.38	1.35	1.38
May	2.88	3.05	2.38	1.71	2.02	1.71	1.36	1.23	1.36
June	2.88	3.05	2.38	1.44	2.02	1.44	1.14	1.14	1.14
July	2.88	3.05	2.38	1.58	2.02	2.00	1.17	1.17	1.17
August	2.88	3.05	2.38	1.74	2.02	2.00	1.21	1.21	1.21
September	2.88	3.05	2.38	1.85	2.02	2.00	1.30	1.30	1.30
October	2.88	2.99	2.38	1.90	2.02	2.00	1.34	1.34	1.34
November	2.88	2.99	2.38	2.00	2.02	2.00	1.42	1.42	1.42
December	2.88	2.99	2.38	2.04	2.02	1.97	1.46	1.46	1.46

during 1937 the Pittsburgh price was the higher. In the period before milk control was adopted the retail price had been consistently higher in Pittsburgh than in Philadelphia.

Prices to farmers for milk used as fluid cream have been lower in the Philadelphia market than in any of the others during the period of control. This is undoubtedly due to the great demand for cream in that city and to the fact that western shipments are waybilled to Philadelphia. It is very likely that the Pittsburgh market will receive a greater proportion of cream shipments if the discrepancy in area prices is continued.

The price paid to farmers for milk used in butter was almost uniform for the entire state during this same period. The greatest spread between areas was four cents per 100 pounds.

In a free market the spread between the dealer's buying and his selling price is determined by three principal factors, the bargaining power of the producer, the bargaining power of the consumer and the bargaining power of the distributor. The main force behind bargaining power is the condition of supply and demand. However, in an economy hampered in its free movement as the dairy industry is in this state, unnatural bargaining power may give undue weight to other than economic forces.

In most cases when the Class 1 price to farmers has been increased the retail price has also been raised, but there does not appear to be an absolute relationship between the increase in price to the producer and the increase in price to the consumer, figure 4. In the three areas, Philadelphia, Pittsburgh, and State-wide, the spread on Class 1 milk has not been lowered since October 1934. This is im-

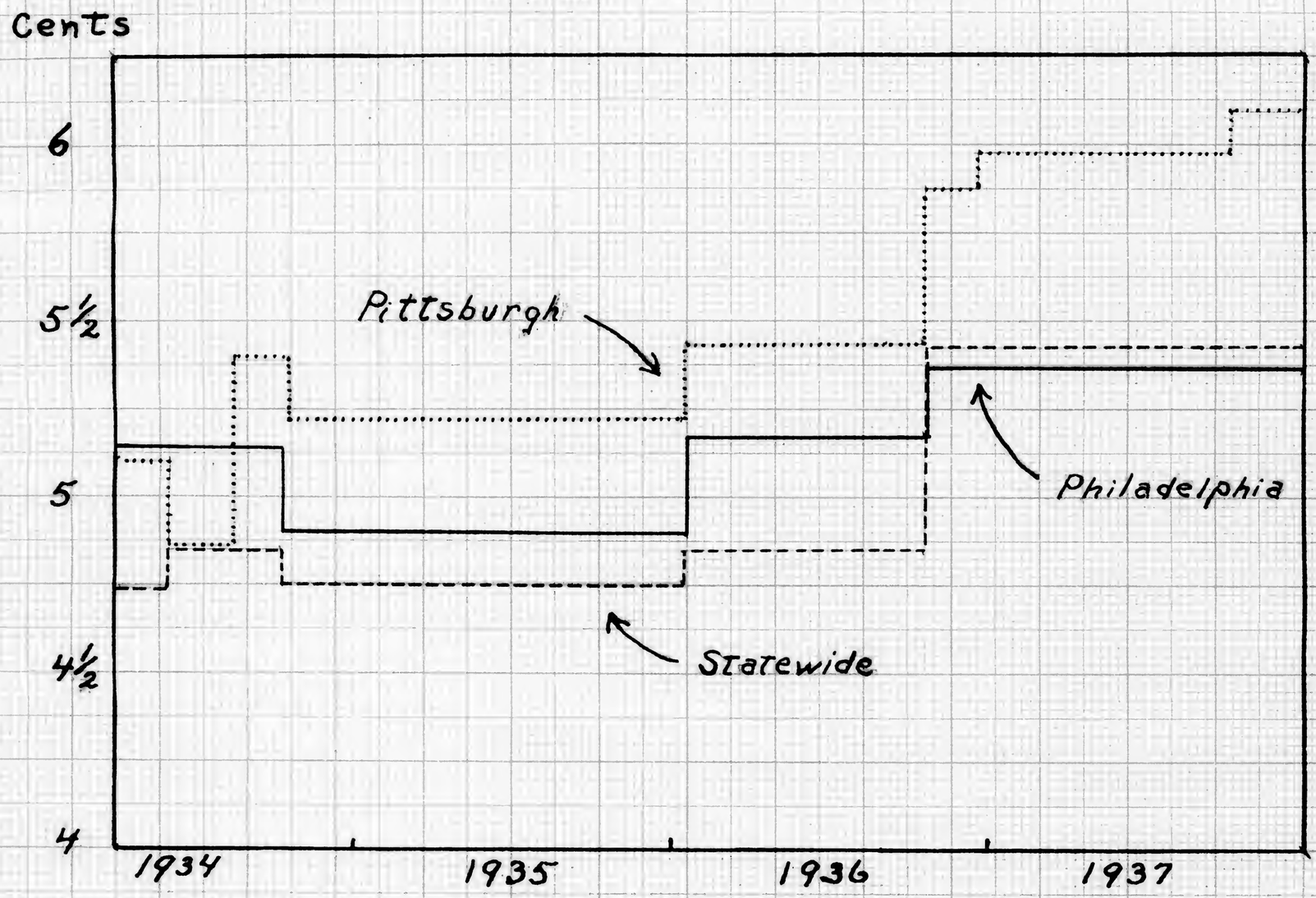

FIGURE 4 - Dealers' Spreads Between the Buying Price of Class 1 and the Retail Price Per Quart of 4 Per Cent Milk in Philadelphia, Pittsburgh and the State-wide Areas Since April 1934.

portant to note in considering claims of the political leaders that milk price control has continued to curb the profits of milk dealers. Careful attention should be given the use of the word "spread". By spread on fluid milk is meant the difference between the f.o.b. price paid farmers and the retail price of Grade "B" in quart bottles. The increased spread does not necessarily mean a higher profit to distributors but the increasing breadth must be considered in its relation to production and consumption regardless of whether the spread is due to increased costs or to increased profits.

The spread[25] on fluid cream was consistently less in Pittsburghthan in other areas until recently, figure 5. The lower spread may be an adjustment to the higher price demanded by farmers in the Pittsburgh area and to the ability to handle the product at some profit. This might not be a net profit because costs could be made up on the fluid milk market where the spread was wider.

3. The Problem of Fixing Prices

The greatest problem of milk control arises from its price-fixing authority. Mr. J. M. Tinley of the Giannini Foundation has pointed out the difficulties of price fixing and has expressed a very important conviction. He writes:

> "The difficulties of administering price-fixing laws are great. In an economy characterized by continual expansion of price fixing into more and more fields of economic activity, however, such legislation for individual industries seems inevitable[26]."

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[25] Spread on fluid cream as used here means the difference between the f.o.b. price paid farmers for Class 2 and the retail price of 20 per cent cream in half-pint bottles.

[26] Tinley, J. M. Economic Considerations in Fixing Resale Prices of Milk. Giannini Foundation of Agricultural Economics. Mimeographed Report No. 57. Page 9.

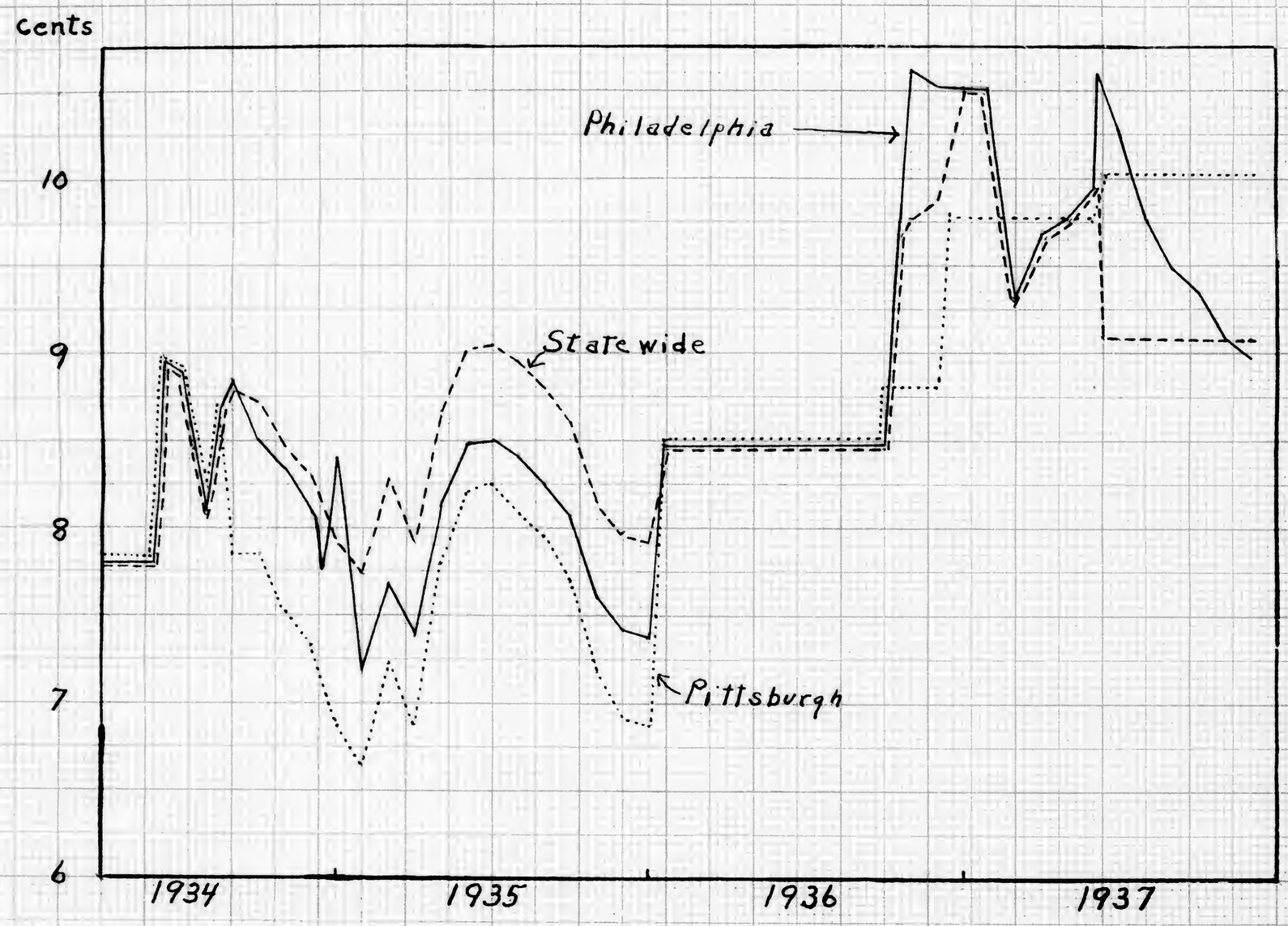

FIGURE 5 - Dealers' Spreads Between the Buying Price of the Amount of Milk Needed for One-Half Pint of Light Cream and the Retail Price Per Half Pint of Light Cream in Philadelphia, Pittsburgh and the State-wide Areas Since April 1934.

The following evaluation of price-fixing experiments and suggestions for future action will be founded on this viewpoint of the inevitability of regulation. The citizens of Pennsylvania have elected to set up a permanent price-fixing agency in this state. Unless there is a radical change in thought, there is little reason to look for a repeal. With this recognition of the permanency of some type of control, it becomes increasingly important to evolve some workable standards for establishing prices.

The fact that milk and milk products have different elasticities of demand should be recognized by any agency regulating prices. It is generally conceded that the demand for butter is elastic, the demand for cream slightly less elastic and the demand for milk less elastic than the demand for either of the other two. However, to say that fluid milk consumption is less elastic in comparing it with other dairy products does not mean that it is inelastic. Reliable evidence concerning the effect of an increased price of bottled milk on the consumption is not available. It may be suggested by figures showing consumption of substitute products. The common substitute for fresh milk is, of course, canned evaporated or condensed milk. The substitution is not entirely for fluid milk. Canned milk may take the place of cream or it may represent additional consumption. For that reason the fluctuations in the consumption of canned milk do not serve as a reliable indication of the demand for fluid milk.

Even though the degree of elasticity in the demand for fluid milk cannot be exactly determined it may be recognized, and a close check on the effects of price changes should be made by the Commission. Assuming that the consumption of milk is very inelastic, that the same

amount will be consumed at any price, it would seem wise from the viewpoint of Pennsylvania dairymen to maintain the fluid milk price at a much higher price than that charged for milk used as fluid cream or for the manufacture of butter. It is possible that if the price were made too high, out-of-state sources of fluid milk would supplant Pennsylvania milk.

The more probable assumption is that the consumption of milk is elastic to a degree, but that it is not as elastic as the demand for other dairy products. In that case an increase in the fluid milk price can increase returns to farmers only as long as the price increase is not great enough to drive any buyers off the market. If the consumption of fluid milk is decreased the proportion used in other classes will increase and the combined price to farmers will decrease. The price of milk used in cream and butter must be maintained at the economic level reached by the world supply and demand.

It may be that a lower Class 1 price would enable Pennsylvania dairymen to sell more milk in this class and thereby receive a greater net return. The lower Class 1 price would be higher than the price for the alternative outlets in Class 2 or 3. Any agency fixing prices should recognize the effects of either of these policies both in relation to producers and to consumers.

In the development of milk pricing policy the more elaborate price-fixing schedules have been constructed for areas adjoining consumption centers. The legal argument which forms the basis of price fixing is the plea that a safe supply of bottled milk must be guaranteed the city populace. The period of control has coincided with that period of the cycle represented by ample supplies. The problem has

been one of preventing the abundant supplies from disrupting the market.

Costs of inspection and transportation tend to keep milk from manufacturing areas out of the fluid market. These costs, however, are gradually changing, and with shifting differentials between the markets for manufacturing and for fluid milk, the price becomes the balance which evens the flow into the different channels. Actually, the power of interests fighting to maintain a limited market has been a potent factor in the attempt to hold nearby prices at a premium.

A price regulating body is confronted with the task of setting up not one price schedule but many. Both producer and consumer prices vary in different areas of the state, according to use, with variations in quality and butterfat content, and with varying costs of distribution.

"Perhaps the most fundamental difficulty in pricing milk to distributors on a flat-price basis is found in the fact that distributors tend to vary widely as regards the proportion of milk sold in each use, coupled with the additional fact that, in a market sufficiently large, differences in transportation costs per unit of milk and the product equivalent of such unit of milk operate so that the market tends to be zoned and milk used for fluid milk must command a price sufficiently higher than that of the cream equivalent of a unit of milk to cover the higher cost of transporting milk in fluid form rather than as cream or other product form[27]."

Price differentials which reflect the variations necessary in a price schedule are second in importance only to the problem of the general level. In the following pages, some effects and comparisons will be presented to show how prices set by the Pennsylvania Milk Commission have been established and changed with too little recognition of the economic facts involved.

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[27] Gaumnitz, E. W. and Reed, O. M. Some Problems Involved in Establishing Milk Prices. Page 29.

MILK PRICES AND OTHER PRICES - It is not difficult to forget the general picture of a complex program when it becomes necessary to deal with a practical problem. The general picture is none the less important and any decision of a practical nature is in no sense practical if it is not formulated with the broad viewpoint in mind.

One of the reasons for establishing a milk control agency was the desire to correct the disparity between the farm price of milk and other prices. This purpose is expressly stated in Acts 37 and 43.

"Whereas, the present acute economic emergency being in part the consequence of a severe and increasing disparity between the prices of milk and other commodities, which disparity has largely destroyed the purchasing power of milk producers for industrial products, has broken down the orderly production and marketing of milk, and has seriously impaired the agricultural assets supporting the credit structure of the Commonwealth and its local governmental subdivision;....."

The achievement of this purpose is assumed in the present Act No. 105 and the intention to continue such purpose is embodied in the law.

".....public control of the milk industry in recent years is stabilizing the conditions therein and a relaxation of control will cause a return to the unhealthful, uneconomic, deceptive and destructive practices of the past with respect to this paramount industry upon which the health and welfare of the Commonwealth largely depends;....."

An examination of the movements in milk prices and other prices affecting the farmer does <u>not</u> show any lessening of this disparity. The prices paid farmers for Class 1 milk direct shipped to Pittsburgh are compared with the index of Pennsylvania farm prices of feed in figure 6, table 5. The period from 1928 to March 1934 shows some lag in adjustment of milk prices to the price of feed, but the lag is more marked during the period of control. There is a feeling that the control agency is producer minded and is anxious to raise the price

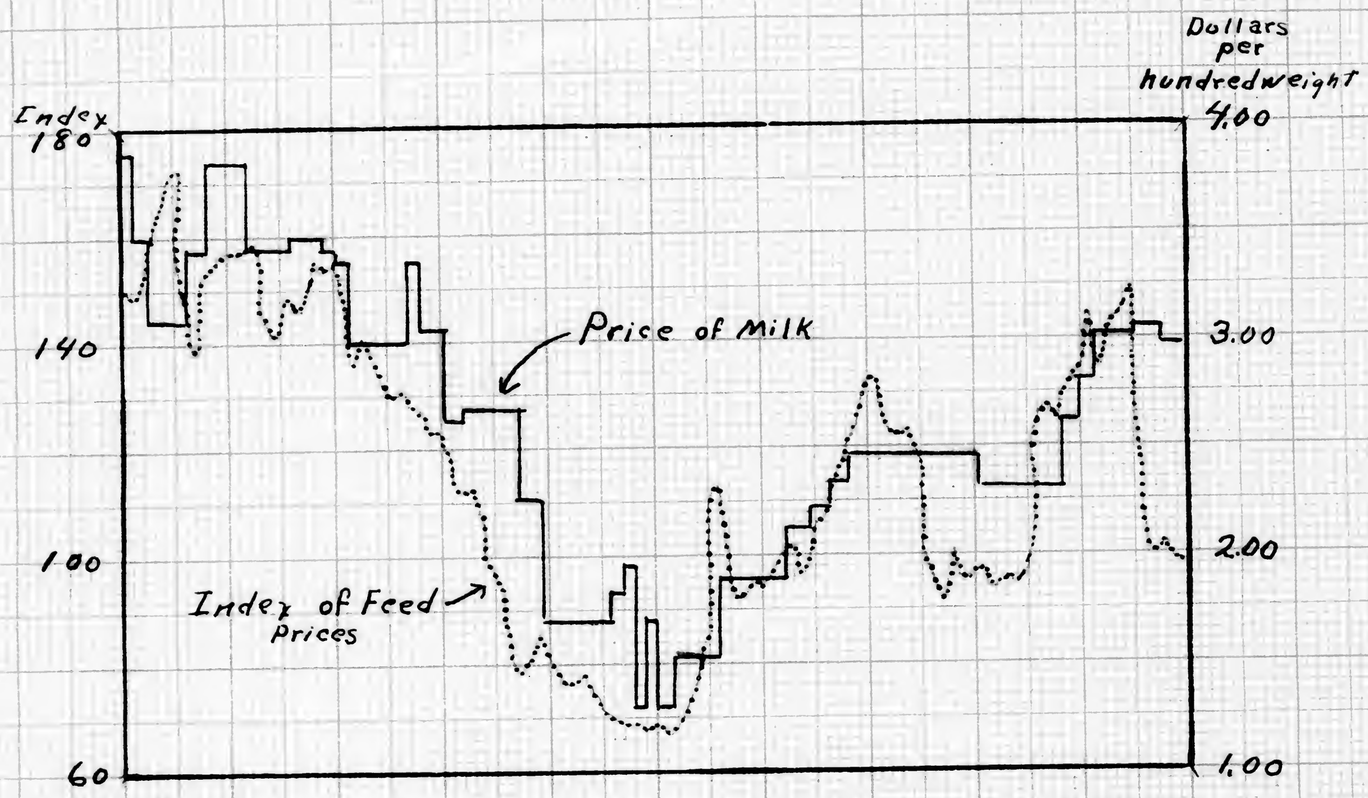

FIGURE 6 - Index Numbers of the Price of Dairy Feed in Pennsylvania and the Price of Fluid Milk at Pittsburgh, 1928-1937.

TABLE 5 - Pittsburgh Class 1 Prices in Dollars Per Hundredweight 3.5 Per Cent Grade "B" Milk, 1928-1937*

	January	February	March	April	May	June	July	August	September	October	November	December
1928	3.90	3.50	3.50	3.10	3.10	3.10	3.10	3.45	3.45	3.85	3.85	3.85
1929	3.85	3.85	3.85	3.45	3.45	3.45	3.45	3.45	3.50	3.50	3.50	3.45
1930	3.40	3.00	3.00	3.00	3.00	3.00	3.00	3.20	3.40	3.40	3.05	3.05
1931	3.05	2.65	2.65	2.68	2.68	2.68	2.68	2.68	2.68	2.25	2.25	1.70
1932	1.70	1.70	1.70	1.70	1.70	1.70	1.70	1.70	1.83	1.95	1.30	1.70
1933	1.30	1.30	1.30	1.55	1.55	1.55	1.55	1.90	1.90	1.90	1.90	1.90
1934	1.90	1.90	1.90	2.15	2.15	2.24	2.24	2.36	2.48	2.48	2.48	2.48
1935**	2.48	2.48	2.48	2.48	2.48	2.48	2.48	2.48 2.30	2.48 2.30	2.48 2.30	2.48 2.30	2.48 2.30
1936**	2.38	2.38	2.38	2.38	2.38	2.38	2.38 2.65	2.38 2.65	2.38 2.65	2.65	2.65	2.85
1937**	3.05	3.05	3.05	3.05	3.05	3.05	3.05	3.05	3.05	2.99 2.72	2.99 2.72	2.99 2.72

*Prices reported by the Dairymen's Cooperative Sales Association for the Direct Shipped area.

**Where two prices are indicated for one month the price above the line is the price set by the Control Board and the price below the line is the actual market price reported by Dairymen's Cooperative Sales Association.

to farmers at every opportunity. If that is the case, this disparity will prove even greater during a period of falling prices. In fact, such an event is portended in the reluctance to drop the price of milk during the recession which started in September 1937.

It is probable that the disparity of prices would have been less if the price of milk had not been controlled by a state agency. We have proof that a local bargaining agency was able to interpret the correct movement several months before the state board took action. In August 1935 the Pittsburgh market broke away from the legal price. The reduction was partly adjusted by the Control Board six months later. In July 1936 a price rise was instigated by the market and three months later the Control Board adopted that same price for the area. Unusually low feed costs and declining business activity in the Fall of 1937 evidently were not adequately taken into account in the determination of a price to farmers. The dealers in the Pittsburgh market again broke away from the legal price. The court of Dauphin County upheld the dealers and declared that the price fixed by the Commission was confiscatory.

The ratio of pounds of milk to pounds of dairy feed is a common method of associating these two factors. In figure 7 is shown the average pounds of milk required to buy a ton of dairy feed in Pennsylvania by years from 1922 through 1937. With the average is plotted the high and the low average months. The range in 1937 was greater than for any other year shown. This is further evidence that prices of milk and feed have shown little relation during the period of artificially set prices.

How does the price for milk received by farmers compare with

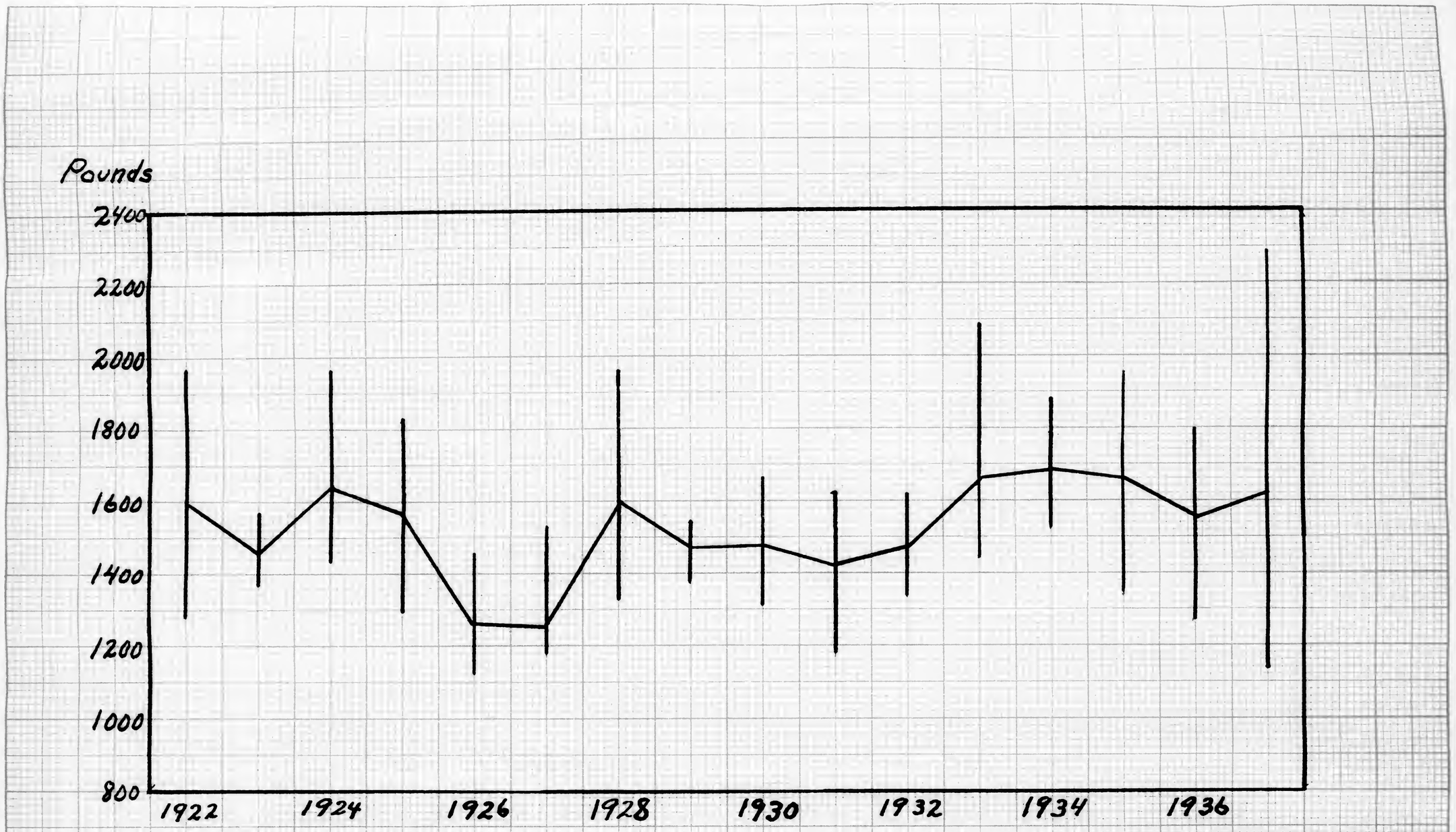

FIGURE 7 - Pounds of Milk Required to Buy a Ton of Dairy Feed in Pennsylvania, 1922-1937. (Line graph shows yearly average. Vertical bars show range from the highest to the lowest months of each year.)

prices received for all farm products? The indexes of these prices on a pre-war base are shown in figure 8. The relation is not noticeably greater after April 1934 than before that time.

The average price paid Pennsylvania farmers for milk is compared with the United States index of wholesale prices in figure 9. Here the milk price does appear to be held closer to the wholesale index than it was before control was instituted. The rise in milk prices compared with the wholesale index had begun before the functioning of control of milk prices. It is possible that the advent of control prevented the swing from rising to former heights and widening the difference between the milk prices and other wholesale commodities.

Now that the facts have been presented which tend to show that milk prices have not achieved a close relationship to other prices, we must examine the structure further. The study will be pursued with careful attention to the time and extent of price changes and the inter-relationships of the class price schedule.

DIFFERENTIALS FOR FLUID USES - Because of the alternative opportunity for sales the price of milk used in one dairy product cannot long be maintained at a level out of economic adjustment with prices of other dairy products. A normal adjustment will tend to establish areas of production for fluid use and for manufacture. Several factors determine the limits of production zones. First of all, comparative transportation costs set up differences in opportunity. Freight on fluid milk is higher than for a similar amount of butterfat in cream or butter. The farmer is often limited to one sales outlet, but if free to choose he would make his decision as to sales channel by comparing the farm price for milk with the price for cream

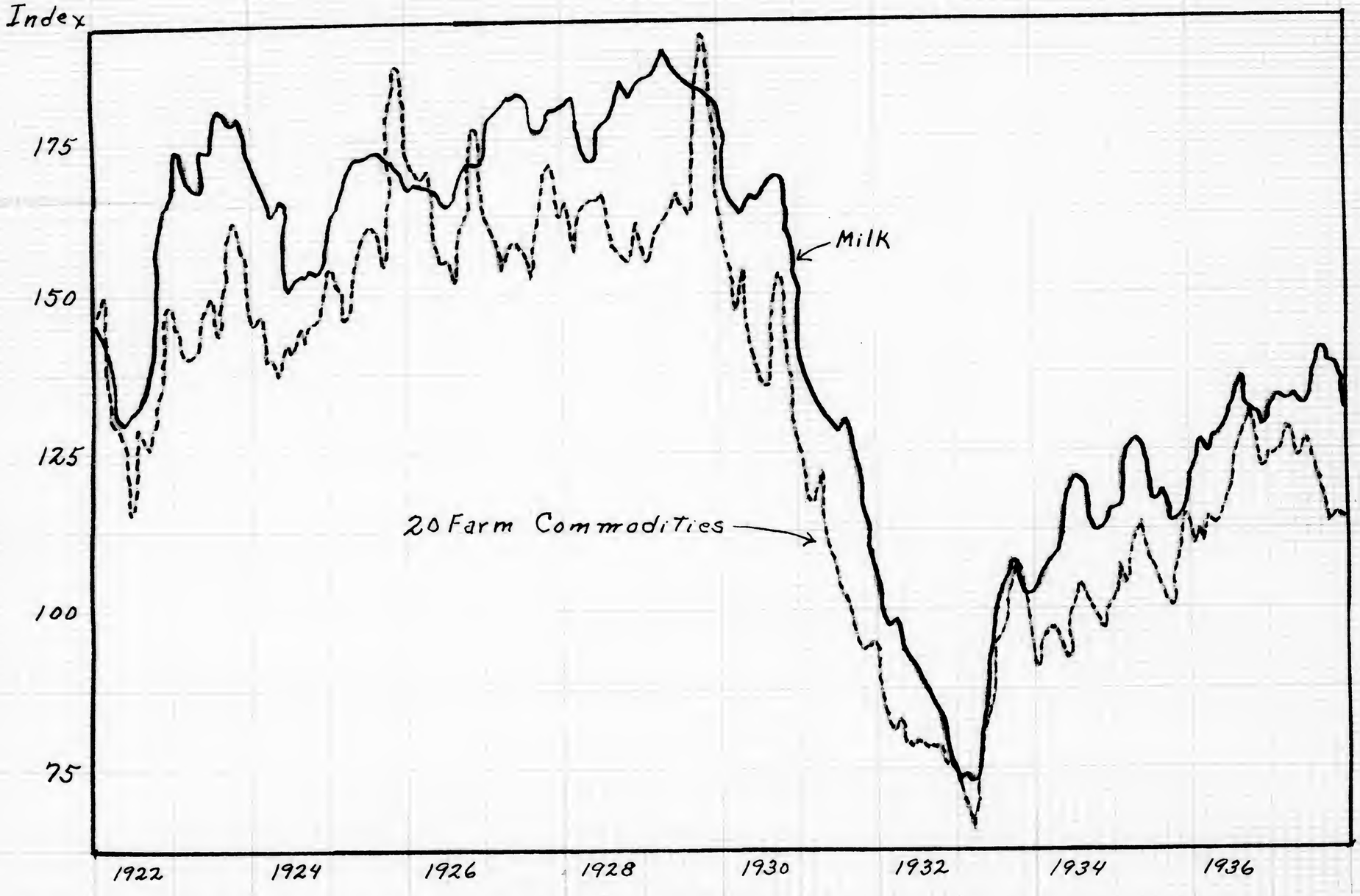

FIGURE 8 - Index Numbers of the Price of 4 Per Cent Milk and the Composite Index of the Prices of 20 Farm Commodities in Pennsylvania, 1922-1937.

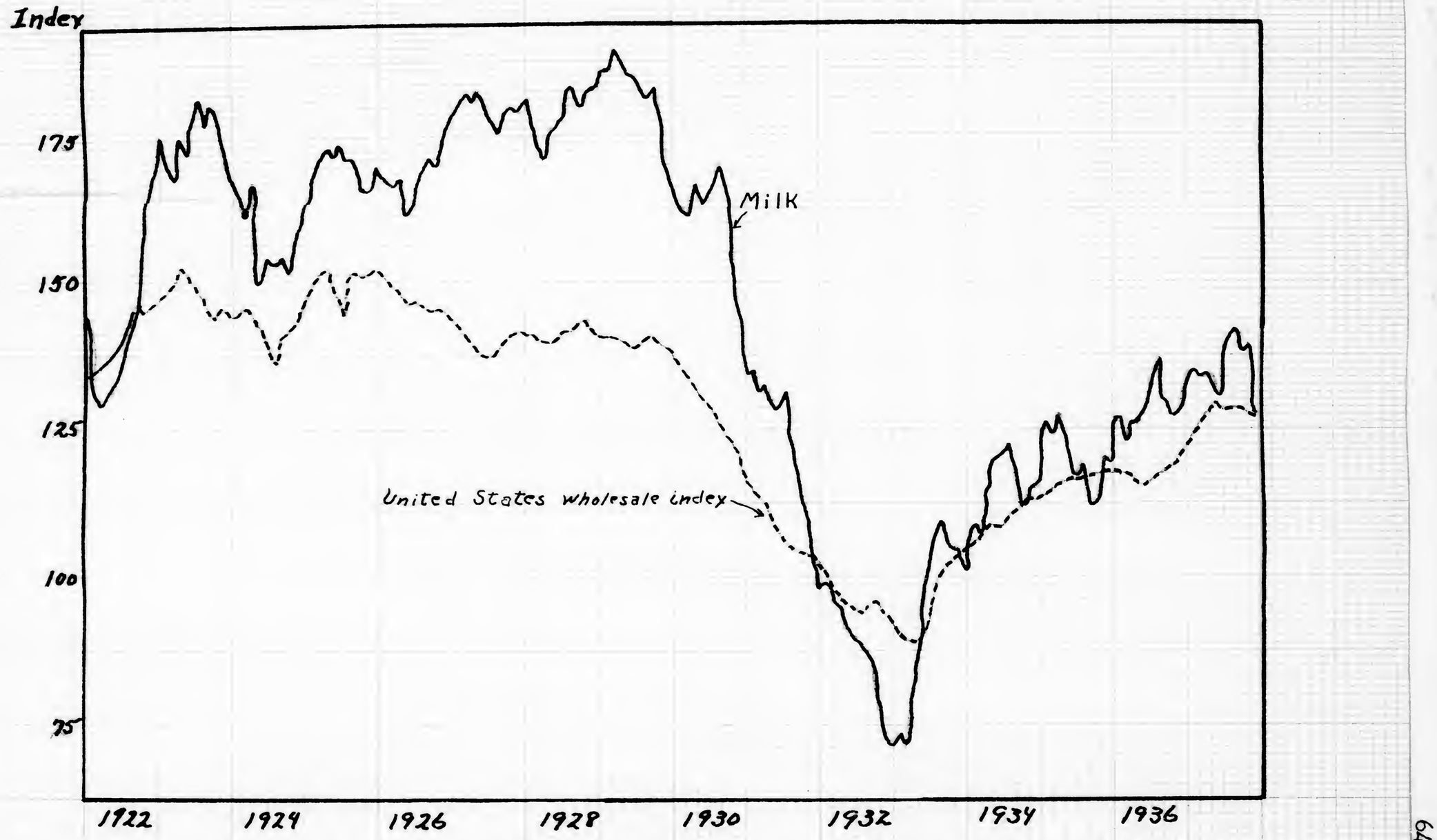

FIGURE 9 - Index Numbers of the Price of Milk in Pennsylvania and the United States Index of Wholesale Prices, 1922-1937.

and with the manufacturer's price. In so far as supplies of milk are similar and may be utilized in any class, the differences in prices f.o.b. will approximate the variations in costs of transportation.

The differential for fluid milk is an absolute amount greater than the difference in freight cost. This amount represents the added incentive for producing quality milk. The rigid sanitary requirements enforced by the various Boards of Health involve an extra cost of production and delay the shift from cream to fluid milk production. The limit to availability of marketing outlets is also a deterrent to normal adjustment. Such incongruities as the location of inspected manufacturing plants in Montgomery and Bucks Counties appear irreconcilable with any theory of zones based on transportation differentials[28]. For the most part, however, manufacturing plants in fluid areas can be explained by their established producer clientele built up in a period when manufacturing offered advantages.

The city manufacturing plant may have no regular group of producers but may purchase milk from other dealers and thus absorb their day to day surplus, or it may contract to receive milk from specified routes during the flush season. The recognition of comparative transportation costs within the milk shed as the most important factor is necessary to a workable schedule of regulated prices.

It might appear at first thought that there should be a fixed differential by which Class 2 should exceed Class 3 and Class 1 exceed Class 2. These differentials would be computed on the basis of comparative freight rates (with adjustments for the premium for sanitary

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[28]The Pennsylvania Agricultural Experiment Station Bulletin No. 327, page 53.

production).

The differential should not be a constant but an adjustment figure and should be sensitive to changes in volume of production. Volume of production exerts a direct influence upon the differential for fluid milk because any change in production within the fluid area necessitates an expansion or a contraction of the zone which was established by the former transportation differential.

Mr. Gaumnitz has explained the adjustment[29].

"With a uniform increase in production in the butter-supply area and the fluid-milk area for a market and with no change in these areas, the price of fluid milk would fall more than the price of the milk equivalent of butter because of the differences in the elasticity of demand for the two products. The more inelastic the demand for milk is, in relation to the demand for butter, the greater the difference. The greater decline in fluid-milk prices than in butter prices would tend to produce some shift in the fluid milk area to the area producing butter and some lessening of the former margin between the two. The absolute fall in the price of milk would be greater than that of the milk equivalent of butter. Territory may be shifted more easily from fluid milk to butter the smaller the absolute difference between them in the transportation costs per mile."

The differentials for fluid uses are shown in tables 6 and 7 for the Philadelphia and the Pittsburgh markets. It can be readily seen that the Board has not provided for a constant relationship between the classes. Some of the variations may be attributed to marked changes in methods of calculating formula prices and some changes came about because the arbitrarily set prices were not quickly adjusted to the automatic changes in formula prices. The differential between Class 1 and Class 2 has at times been higher, and at times has been lower than the differential between Classes 2 and 3.

The differential between Class 1 milk and milk used as fluid

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[29]Gaumnitz, E. W. and Reed, O. M. Some Problems Involved in Establishing Milk Prices. Page 72.

TABLE 6 - Differentials for Milk in Fluid Uses - Philadelphia

Differentials in dollars per 100 pounds 3.5 per cent Grade "B"			
Year and month	Milk over cream	Milk over butter	Cream over butter
1934			
April	.90	1.61	.71
May	.90	1.57	.67
June	1.19	1.73	.54
July	1.16	1.69	.54
August	1.05	1.59	.55
September	1.25	1.70	.45
October	1.46	1.66	.21
November	1.47	1.57	.10
December	1.27	1.52	.25
1935			
January	.90	1.40	.50
February	.83	1.33	.50
March	1.19	1.49	.30
April	1.09	1.39	.30
May	1.34	1.64	.30
June	1.45	1.75	.30
July	1.46	1.76	.30
August	1.43	1.73	.30
September	1.38	1.68	.30
October	1.32	1.62	.30
November	1.17	1.47	.30
December	1.11	1.41	.30
1936			
January	.99	1.44	.50
February	.80	1.21	.41
March	.80	1.37	.57
April	.80	1.42	.62
May	.80	1.54	.74
June	.80	1.46	.66
July	.80	1.33	.53
August	.80	1.26	.46
September	.80	1.28	.48
October	.98	1.42	.44
November	1.12	1.47	.35
December	1.09	1.44	.35
1937			
January	1.09	1.44	.35
February	1.09	1.44	.35
March	1.03	1.38	.35
April	1.15	1.50	.35
May	1.17	1.52	.35
June	1.44	1.74	.30
July	1.30	1.71	.41
August	1.14	1.67	.53
September	1.03	1.58	.55
October	.98	1.54	.56
November	.88	1.46	.58
December	.84	1.42	.58

TABLE 7 - Differentials for Milk in Fluid Uses - Pittsburgh

Differentials in dollars per 100 pounds 3.5 per cent Grade "B"			
Year and month	Milk over cream	Milk over butter	Cream over butter
1934			
April	.45	1.22	.77
May	.45	1.87	.74
June	.83	1.37	.54
July	.85	1.38	.54
August	.68	1.38	.69
September	.80	1.53	.73
October	.80	1.54	.74
November	.70	1.45	.76
December	.63	1.40	.77
1935			
January	.49	1.28	.79
February	.41	1.21	.80
March	.60	1.37	.77
April	.48	1.27	.79
May	.78	1.52	.74
June	.91	1.63	.72
July	.93	1.64	.71
August	.88	1.61	.73
September	.83	1.56	.73
October	.75	1.50	.75
November	.58	1.35	.77
December	.50	1.29	.79
1936			
January	.53	1.22	.69
February	.58	1.09	.51
March	.58	1.25	.67
April	.58	1.30	.72
May	.58	1.42	.84
June	.58	1.34	.76
July	.58	1.21	.63
August	.58	1.14	.56
September	.58	1.16	.54
October	.61	1.26	.66
November	.63	1.24	.61
December	.83	1.45	.62
1937			
January	1.03	1.65	.62
February	1.03	1.65	.62
March	1.03	1.60	.57
April	1.03	1.70	.67
May	1.03	1.82	.79
June	1.03	1.89	.88
July	1.03	1.88	.85
August	1.03	1.84	.81
September	1.03	1.75	.72
October	.97	1.65	.68
November	.97	1.57	.60
December	.97	1.53	.56

cream and the differential between Class 1 and milk used for making butter in the Pittsburgh area have been compared with the yearly surplus as reported by the Dairymen's Cooperative Sales Association which represented 40 per cent of the milk in the Pittsburgh market in 1934, table 8, figure 10. Surplus is used instead of total production because the effect of its movement cannot be minimized by reference to changes in demand for fluid milk. It will be seen that while surplus was increasing the differentials between classes increased. This movement is not consistent with economic reasoning and must be attributed to the monopoly of state controlled prices.

Table 8 - A Comparison of the Volume of Surplus Milk in the Pittsburgh Market and the Differentials for Class 1 Milk Over Milk Used to Produce Cream or Butter, 1934-1937.

Year	Receipts above Class 1 sales*	Differential between Class 1 price and price for milk used as cream	Differential between Class 1 price and price for milk used as butter
	(thousand pounds)	(dollars per hundredweight)	(dollars per hundredweight)
1934	112171	.69	1.46
1935	144122	.68	1.44
1936	147921	.60	1.26
1937	159215	1.02	1.73

*Milk marketed by the Dairymen's Cooperative Sales Association. Distributors buying their milk supplies from this cooperative accounted for 62 per cent of the milk sold as fluid cream and 40 per cent of the milk manufactured in 1934. Pennsylvania Agricultural Experiment Station Bulletin No. 327.

PRICES AND INTERSTATE MOVEMENTS - The Milk Control Commission was established to control the production and distribution of milk in Pennsylvania. The wording of the act also extends the power to regulate the processing and the resale price of manufactured dairy products. However, the Commission has foreseen the impossibility of regulating

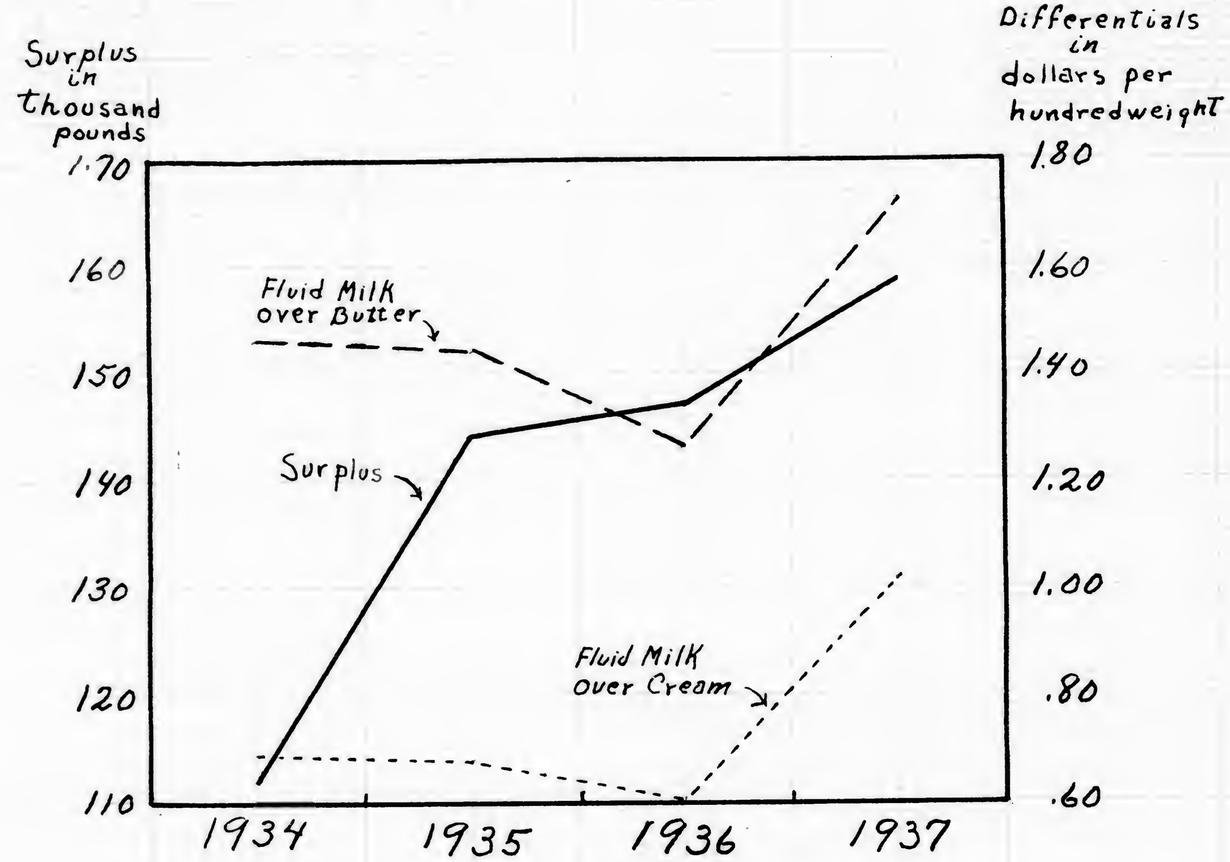

FIGURE 10 - The Differentials Between Class Prices and the Increase in Surplus in the Pittsburgh Market, 1934-1937.

commodities like butter. Butter could be controlled only to a limited degree on a national scale. It is a commodity of world trade. Fluid milk and cream are not internationally traded commodities but they are items of interstate commerce. Cream can be shipped greater distances than milk because it has higher value per unit and is not so perishable as fluid milk.

The effect of the law upon interstate shipments must be considered from two angles, (1) What is the effect of regulation upon the volume of milk and cream purchased from other states, and (2) How has regulation affected sales from this state?

The United States Department of Agriculture Bureau of Agricultural Economics collects data on receipts of commodities by state of origin. It appears from table 9 that the percentage of fluid milk furnished by Pennsylvania farmers to the Philadelphia consumers has not changed markedly in the past three years. Some tendency toward a slightly higher proportion of Pennsylvania milk may be noted.

The percentage of cream receipts at Philadelphia originating in Pennsylvania reached a low in 1935 and increased in the past two years, tables 10 and 11, figure 11. Receipts of cream from states adjoining Pennsylvania also show an increase and receipts from western states have dropped off. It does not follow that milk price control has had anything to do with this trend toward narrowing the market. The real reason has been the more stringent sanitary rules enforced by the Board of Health.

The possibility that prices of market cream in relation to the price paid Pennsylvania producers for milk used as cream may influence receipts of cream from other states by causing dealers to buy

Table 9 - Percentage of Receipts of Fluid Milk at Philadelphia Metropolitan Area, Originating in Pennsylvania, 1935-1937.

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1935	74	72	72	72	69	70	72	73	72	73	73	72
1936	73	73	73	72	69	71	74	74	73	76	77	76
1937	76	75	74	74	75	76	77	76	74	75	75	75

Table 10 - Percentage of Total Cream Receipts at Philadelphia by State of Origin, 1933-1937.

	Total receipts (pounds)	Pennsylvania (per cent)	Eastern states* (per cent)	Western states** (per cent)	Miscellaneous states (per cent)
1933	268,577	26	15	52	7
1934	262,612	40	9	41	10
1935	230,706	24	13	57	6
1936	204,962	37	16	45	2
1937	232,820	44	20	36	0

*Maryland, Delaware, New Jersey, and New York.
**Wisconsin, Ohio, Indiana, Illinois, and Michigan.

Table 11 - Percentage of Total Cream Receipts at Philadelphia from Pennsylvania Sources by Months, 1933-1937.

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1933	25	24	25	27	24	29	18	20	24	27	39	42
1934	50	48	44	42	28	38	29	38	57	62	44	23
1935	29	33	30	23	25	23	18	18	32	34	12	21
1936	22	21	22	30	40	41	48	49	54	45	36	37
1937	44	52	58	59	49	42	42	38	43	33	32	35

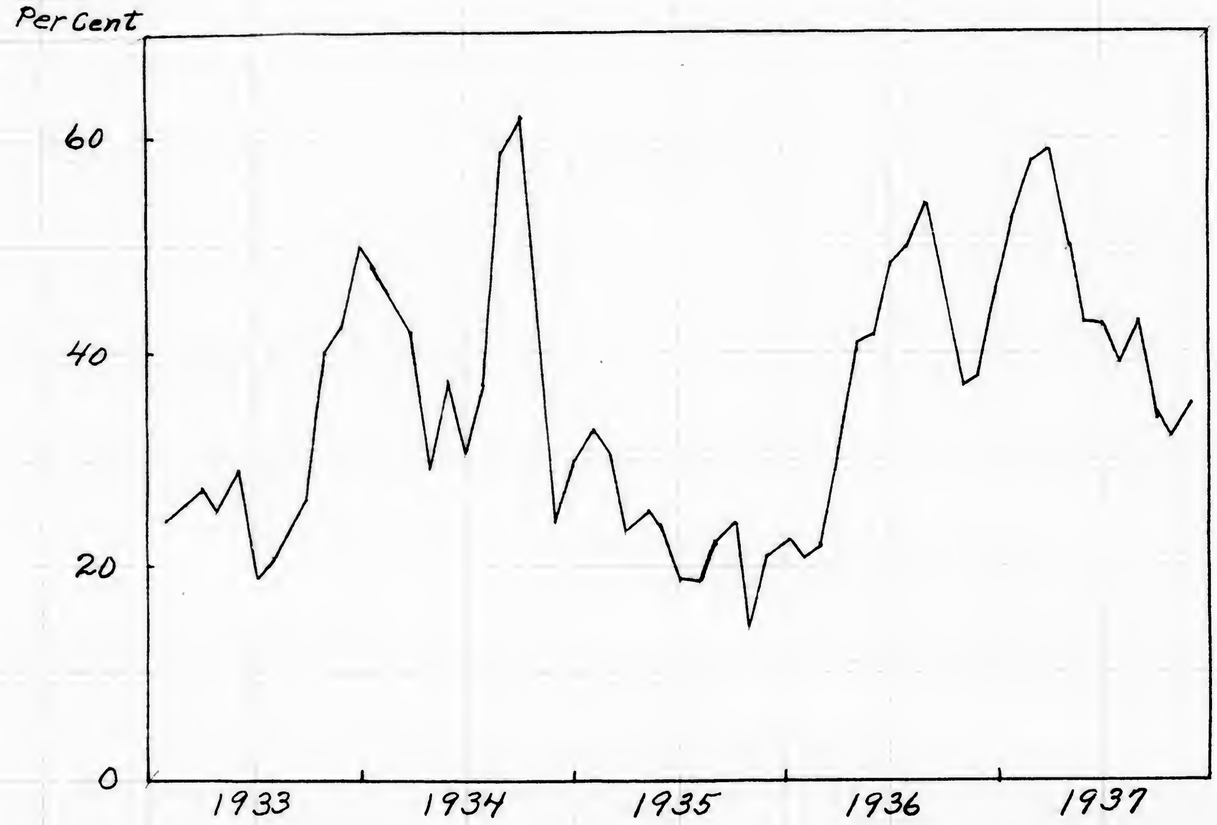

FIGURE 11 - Percentage of Receipts of Cream at Philadelphia Originating in Pennsylvania, 1933-1937.

the cheaper cream from the outside, has been examined, table 12. The movements do not follow a similar pattern and the logical conclusion is that the relationship, if it exists, is not one of prime importance. There has been a definite increase in sanitary restrictions on fluid cream offered for sale in Pennsylvania. This overshadows any influence which price relationships might exert in a less restricted market.

The same restrictions which limit the volume of milk received at Philadelphia from other states appear to affect receipts at New York from Pennsylvania, table 13. The proportion of receipts from Pennsylvania increased from 1933 to 1935 and then decreased until the 1937 figure nearly equalled the 1933 percentage. The proportion of cream receipts from Pennsylvania at New York has decreased from 13 per cent to 9 per cent.

No milk was shipped from Pennsylvania to Boston during this period and no cream was shipped in 1935, 1936 or 1937. Small amounts of Pennsylvania cream were sold at Boston in 1933 and 1934.

The trend appears to be for less milk and cream to pass over state boundaries. The explanation may lie in the sincere desire of each state to provide a sanitary supply of milk which has been inspected by its own Board of Health. However, it is likely that the restrictions are used to protect local milk and cream from interstate competition. To the extent that restrictions are set up to regulate the interstate shipments for purely economic protection, they cannot be justified. The barriers decrease the productive capacity of all states. In so far as the barriers are for the purpose of insuring a safe supply of milk they might be reduced by interstate cooperation on the part of health departments. Recognition of inspection by another

TABLE 12 - Net Differences in Market Price of 40 Per Cent Cream at Philadelphia (Pennsylvania Approved Quality) and the Price Paid Pennsylvania Producers for Milk Used as Cream, Compared with the Per Cent of Out-Of-State Receipts, 1935 and 1936.#

	Net difference (dollars per 40 quart can)	Percentage of total receipts from other states
1935		
January	.0576	71
February	1.4464	67
March	2.1376	67
April	.8448	77
May	1.8624	75
June	3.0048	77
July	.6720	82
August	.1472	82
September	1.0528	68
October	.0848	66
November	1.9904	88
December	.4720	79
1936		
January	1.4251	78
February	1.5968	79
March	1.5072	78
April	1.4464	70
May	2.6368	60
June	2.8160	59
July	.5760	52
August	.2528	51
September	.0544	46
October	.4112	55
November	.4928	64
December	1.7888	63

#Differences are calculated on mean average prices

Table 13 - Percentage of Receipts of Milk and Cream at New York and Metropolitan Area Originating in Pennsylvania.

	Percentage of receipts from Pennsylvania	
	Milk	Cream
1933	16	13
1934	17	12
1935	19	11
1936	18	10
1937	17	9

state would remove the artificial barrier of inspection.

4. Special Grades

Under the regulations, milk sold in fluid form for human consumption must be purchased from the producer as Class 1. It may be sold to the consumer under one of several names. Resale prices vary with quality, butterfat content and distinguishing characteristics of flavor and appearance.

The first general order effective in April 1934 fixed a quality differential of 3 cents between Grade "A" milk and Grade "B" milk not exceeding 3.8 per cent butterfat. The price to farmers was the price of Grade "B" 3.7 per cent plus a differential of 6 cents for each one-tenth point of butterfat above 3.7 per cent butterfat content. Grade "A" milk was defined as:

".....milk which conforms in quality and is produced under the Rules and Regulations promulgated by the Department of Health of the Commonwealth of Pennsylvania in accordance with Section 4 of the Act 428, Approved May 2, 1929.

"Grade "A" milk shall contain not less than 4 per cent butterfat content as shown by the average monthly computed test. The bacteria count of all Grade "A" milk as delivered in the terminal market shall not exceed 200,000 bacteria per cubic centimeter[30]."

[30] Milk Control Board, Commonwealth of Pennsylvania. Official General Order No. 6, Section 6.

Specific requirements concerning premiums allowed for low bacteria counts were a part of Order 8, effective June 1, 1934. A minimum of five bacteria counts per month were required of "A" milk producers. The order stated that Grade "A" milk that in quality falls below the bacteria bonus requirements, and for which the producer is not paid a bacteria bonus, shall not be sold to consumers as Grade "A" milk. The definition of Class 1 was extended by Order No. 8 to include chocolate or flavored milk or cream buttermilk. The schedules of premiums for low bacteria counts were discontinued with the approval of Order 13, effective July 18, 1934, but were adopted again by the reinstatement of Order No. 8 in August.

The requirements for Grade "A" and the schedule of bacteria bonuses established by Order No. 17 effective October 1, 1934 remained in force until February 15, 1937, when a new schedule was set up by Order 39. That order differentiated between markets when it set up the butterfat differential to be paid producers. The markets where the spread was only two cents between "A" and "B" milk had a lower butterfat differential. In both Orders 17 and 39 the premiums and quality standards were lower for Pittsburgh than for the Philadelphia area.

There has been a gradual decrease in the differentials paid producers for special grades and an increase in the specifications for production. The producers of Grade "A" milk have protested against the lower premiums.

It is interesting to note that skim milk is excluded from Class 1 by the order of October 1, 1934. Later developments caused a change of classification. Skim milk was relegated to Class 1 because some dealers used skim milk in standardizing the butterfat test of

their bottled milk.

Homogenized milk was included in the definition of Class 1 by the order effective January 15, 1936. In Orders 28 and 29 written in the Fall of 1936 the words "and milk drink" were added to the class. Milk drink would seem to include any beverage made with some proportion of fluid milk.

The first set of orders written by the new Commission in June, 1937 specifically defines certified, inspected raw, Vitamin "D" and skim milk. Resale price schedules were set up for each type.

The tendency has been to enlarge the definition of Class 1 milk to include all milk purchased from producers which is sold to consumers in the semblance of bottled whole milk. The increasing divisions in the resale schedule are in part a recognition of variations in quality but they are primarily a blow to individual dealer advertising. In the case of homogenization, dealers who do not homogenize complain that this is a different type of milk and must be sold at a higher rate. The dealers who process their milk in this way argue that it does not change the quality of the milk, that it is merely sales talk.

Dealers may hesitate to advertise quality features of their products if they do not increase their sales by such methods. The complaint of one dealer against another dealer's sales practices arises from the struggle for sales on the market. The curb on selling milk advertised for special features at the price of Grade "B" tends to lessen the possibility of improvement.

5. Production Control

There are certain characteristics of the production and consumption of farm products to which may be attributed many of the complaints of farmers. The farmer is unlike the button manufacturer who makes his buttons all year round and sells them the year round as well. He is unlike the hat maker who can make his hats to fit the income of the buyer and who can often induce the customer to buy a second hat when the farmer is unable to sell him another potato.

The production of farm products is an extended process and demand anticipated at planting time may be far different when the crop is harvested. Crop yields are dependent on weather and the farmer may be disappointed by a small crop or by a crop so large that it sells at a loss. A large proportion of the expense of production of livestock products is made up of fixed expenses, - the cow, the barn, the milking equipment and the facilities for taking care of milk. It is not the cow's nature nor the farmer's wish to turn off the milk flow when the price goes down.

There is a peak in production of milk in the spring months and a low point in the fall. Demand also tends to be higher in the late spring and summer months, but the demand peak comes later than the production peak and it does not rise so high. This inability on the part of the farmer to adjust production to demand causes a surplus of milk over fluid requirements in some months. The surplus must be sold for manufactured uses and brings a lower price. The price for fluid milk has varied little with the seasons since the prices have been fixed on a classification base.

The dealer is interested in an adequate supply to meet the

demand of his customers during the winter as well as during the summer. The usual procedure is to contract to buy a producer's entire supply the year around. If the seasonal variation is very great the price paid in the summer will be considerably lower than the average price because of the greater proportion of the milk which must be sold for manufacturing.

There have been attempts to control this seasonal swing to some extent. One of the simplest plans offered is a flat price which would reflect the seasonal conditions of supply and demand. The assumption is that farmers will plan production to get the greatest possible volume when prices are high.

One plan that was successful in controlling seasonal variation was the basic-surplus plan used for several years by the Inter-State Milk Producers Association in the Philadelphia milk shed. A base plan was inaugurated in 1928 in the Pittsburgh shed but the results were not so successful. The length of time it was in operation may have been too short to show marked results. No plan for payments on a base surplus arrangement has been adopted by producers in the New York milk shed.

The differences in seasonal variations is expressed by range for the three major sheds in table 14. The data in this table were calculated by F. F. Lininger and C. W. Pierce for their study of the "Seasonal Changes in Market Milk Production in Pennsylvania[31]."

The lower range in seasonal variation in the Philadelphia milk shed during the period when the production plan was administered

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[31]Pennsylvania Agricultural Experiment Station Bulletin No. 358.

Table 14 - Extent of Seasonal Variation of Milk Receipts from Producers in the Three Major Milk Sheds of Pennsylvania, 1930-1936.

Year	Extent of seasonal variation*		
	Philadelphia**	Pittsburgh***	New York****
1930	27	45	55
1931	18	31	62
1932	18	39	66
1933	10	51	57
1934	22	43	61
1935	33	62	70
1936	33	59	60

*Seasonal variation by months was calculated on the basis of the variation of daily receipts from the daily average for each year. Extent here is the difference between the index of the month of greatest receipts and the index of the month of lowest receipts.

**Based on purchases of three large distributors in Philadelphia.

***Based on purchases of distributors buying from Dairymen's Cooperative Sales Association.

****Based on production by members of Dairymen's League delivering to League plants.

is fairly conclusive proof that the plan was effective.

Seasonal production control has been one of the points of contention at hearings and among Board members. Some of the differences arose from the producers' attitude toward the plan of payment. The advantage that any system of bases offers the established producers is always greater than the advantage to new producers entering the market. For this reason the plan does not enjoy universal approval.

Proposals for the recognition of base-surplus plans for payment to be adopted by the Milk Control Commission were promoted by the Philadelphia producers' group and by some others in 1937. The Commission members became interested and held a hearing for the purpose of discussing such plans. The industry and the Commission requested the

study of seasonal variations in the major milk sheds made by Mr. Lininger and Mr. Pierce. The principle of seasonal production control is rather generally accepted but the method for establishing bases is more difficult. No plan acceptable to a majority of both producers and dealers has been promoted.

These efforts at control have all been directed toward the regulation of seasonal surpluses. There is another production problem caused by cyclical surplus. The production of milk forms peaks and troughs every seven or eight years. These peaks and troughs are caused by farmers' reactions toward current prices and their inability to foretell future prices. When the price of milk is high farmers save heifer calves and build up their herds so that they may get a greater supply of milk to sell. It takes some time for the heifers to reach milking age and meanwhile other farmers have been raising heifers. The supply of milk is greatly increased and the price goes down. The process reverses. Farmers sell cull cattle and calves because they are not making profits. When the supply has been diminished the price goes up again.

Price has a marked effect upon farmers' decisions. This reflection of price upon production may be felt in varying degrees by producers for the fluid outlets and for the manufacturing use. This is caused by the relative reluctance with which the fluid milk price is adjusted to the production. When the price of fluid milk goes up not only the producers of fluid milk are induced to expand production but producers who have been selling to manufacturing dealers now find it advantageous to sell fluid milk.

Control in Pennsylvania has been exercised chiefly to main-

tain the advantage of the producer of fluid milk. At least that seems to have been the aim. Whether the prices of the Control Board have achieved that goal is a matter for questioning. It is possible that the Class 1 price may have been maintained at a level too far above the other classes. If the Class 1 price has been too high increased production on the part of producers who supply the fluid market will be noted. In so far as this increased supply can be sold as Class 1 milk these farmers have gained, but the consumption of milk would be affected by the price and would be likely to decrease.

If a certain farmer sells 10,000 pounds of milk to a dealer who utilizes 8,000 pounds as Class 1 and 2,000 pounds as surplus, and receives payment at the rate of $2.50 per hundred for the Class 1 and $1.50 per hundred for the surplus, he would be paid $230.00 or $2.30 per hundred pounds of milk. If the price of Class 1 milk is increased to $2.60 he and all other producers supplying the dealer will increase their production. When he gets his milk check he finds that he has been paid $208.00 for 8,000 pounds of Class 1 and $45.00 for the 3,000 pounds of surplus. The total check is $253.00 but the per hundred price is still $2.30. Whether or not the farmer has made a profit will depend upon the added cost of the 1,000 pounds. It is possible that the rate of return to all Pennsylvania farmers has been reduced by this policy of high Class 1 prices.

Before price rise		After price rise	
Farmer sells:		Farmer sells:	
8,000 pounds Class 1 @ $2.50,	$200.00	8,000 pounds Class 1 @ $2.60,	$208.00
2,000 pounds surplus @ 1.50,	30.00	3,000 pounds surplus @ 1.50,	45.00
	$230.00		$253.00
$230 ÷ 10,000 = $2.30 per hundred pounds		$253 ÷ 11,000 = $2.30 per hundred pounds	

Since production is an effect as well as a cause of price, a price which may be out of normal adjustment to supply and demand exerts its influence on production and may exaggerate the maladjustment. If a price is set too high it encourages production and the added production cannot be sold at the higher price. If the price is too low the desired supplies will not be forthcoming and dealers will bid higher for milk. Any agency for the control of prices must take this pressure into account in setting prices.

It was assumed that the farmer could sell the same volume of milk for fluid use at $2.60 per hundred pounds as he had sold at $2.50. It is more probable that the increased price would have resulted in a decreased volume of Class 1 sales. Then the farmer's price would be lower because he would not only be selling a lower proportion as fluid milk but he would be selling a smaller amount at the higher price.

6. The Costs Argument

In any approach to some public regulation of prices the cost argument has been a major issue in the determination of such prices. Cost of production has been adopted as the basis for fixing public utility rates. Cost of production is the chief item of testimony on the part of farmers, and cost of distribution is the main theme of

dealers' briefs.

No one method of calculating costs has been adopted either for the cost of production or the cost of distribution. The cost figures vary of course, with the different methods used. The wide range of testimony in regard to cost is probably responsible for the lack of regard given to it when orders have been written. It would appear from the volume of testimony showing costs that they form the basis of Control Commission prices. The Commission recognized the inadequacy of available costs figures in 1937. The auditors of the Commission made a study of Pittsburgh milk dealers' accounts. The Commission also encouraged the Department of Agricultural Economics of The Pennsylvania State College to make a study of producers' costs. Cost figures are more difficult to obtain for the milk industry than for those industries whose units of production are larger. The range in costs is very great.

The attitude toward costs might be expected to change with a new position in the dairy cycle. When supplies are great a price based on cost of production would defer the normal adjustment to a lower level. On the other hand, when supplies are small the cost of production price may not be high enough to encourage the necessary expansion of the production. The recognition of the proper use of cost figures in the determination of a price is just as essential as the necessity of having correct figures to analyze.

SUMMARY

Government regulation of the fluid milk industry was inaugurated by the New York state and by the federal laws passed in the first half of 1933. The administrators of these early acts were involved in many court cases testing the constitutionality of the laws. The federal government is permitted to regulate some markets under its power to regulate interstate commerce, and a state may devise laws to control markets entirely within its boundaries under the state's right to regulate internal affairs for the good of its citizens. Acts passed by the legislatures of Maryland and Washington were the only state laws declared unconstitutional. It is possible that if the method of control had been modified these laws might have stood the court test.

There were 23 federal orders effective in markets of the east and of the west on January 1, 1938. On that same date some type of state control of milk prices was operated in 19 of the states. There was a concentration of federal orders in areas of the Plateau States while the densely populated areas of the New England and the Middle Atlantic States represented a section completely under state regulation of milk prices.

The original state laws were emergency measures. Laws passed in the last year show a tendency to replace emergency laws with legislation for permanent state control of milk prices.

The first Pennsylvania act setting up a Control Board for the administration of regulated milk prices was approved by Governor Gifford Pinchot January 2, 1934. The Act created a Milk Control Board of three members who exercised final price-fixing authority. Minimum price fix-

ing was mandatory and maximum price fixing was permissive. To insure compliance on the part of milk dealers they were required to operate under license. The administration of the act was financed by license fees and by an appropriation from the general fund.

The general provisions were essentially the same in the second act passed at the expiration of the original law in 1935. In addition to the extension of previous powers the Board was authorized to establish marketing area enforcement committees. The Board's power was limited by the requirement that price-fixing orders bear the Governor's signature. This provision was the Governor's method of carrying out his campaign pledge to serve on the Milk Board.

The present law, Act 105, differs from the two former laws in that it sets up a permanent agency for the control of milk prices. This agency is known as the Milk Control Commission and like the former Boards consists of three members. However, the Commission members are appointed not for an emergency but for successive six year terms. Act 105 adds to the powers of the Milk Commission the responsibility of certifying stations for weighing and testing.

The first general order setting forth schedules of prices for the entire state became effective April 2, 1934. Prices to farmers were based on a schedule of four classes according to the final utilization of the milk. Resale prices to be charged for fluid milk, fluid cream and buttermilk were fixed. Grades "A" and "B" were defined and price differentials were established. The order also established store differentials and maximum hauling charges, defined fair trade practices and sales quantity control, and required that milk dealers keep records of accounts.

The definitions of classes of milk and the area limits were modified by succeeding orders. Sales quantity control was dropped and the attitude toward store differentials changed. These years of experimentation with milk control in Pennsylvania have been marked by a trial and error philosophy - many trials and many errors. The changing policies and the lack of an established policy may be attributed in part to the many changes in the personnel of the Board. This may also partly explain the complaints of producers and distributors that price changes have not been forthcoming as quickly as they were needed.

A major duty of the Milk Control Commission has been to justify itself and its orders in the courts. The constitutionality of the state control of milk prices was established by the decision of the Pennsylvania Supreme Court in the Rohrer's Med-O-Farms Dairy case. The legal counsel of the Commission has been busy testing the right to require dealers to be bonded, and recently the price-fixing authority has been questioned on the grounds that certain prices were confiscatory.

Problems of milk control arise from inherent difficulties of price fixing and also from the impedimenta of political caprice and patronage. The length of time taken to develop an order reflects both of the latter obstacles. So-called arbitrary prices can be effective in a democracy only when the interested persons are in substantial agreement. It takes some time to reach this agreement, if in fact it can be reached at all, and meanwhile the old prices prevail. Once the facts were assembled by the Commission it required from 15 to 104 days for the execution of an order. This tardiness can be blamed on the poorly equipped staff of a Commission weighed down by political ap-

pointees who are not familiar with the problems involved.

The price schedules are established on an area basis. These areas are intended to define localities of similar economic structure with reference to the production and consumption of milk. Boundaries for the most part follow county lines although in a few instances township boundaries have been used. Price differentials between areas have not remained constant. In some cases the differentials have been reversed and a city which formerly had a lower price schedule than its neighbor now has a higher schedule.

The fixing of milk prices by a governmental agency presumably has been placed on a permanent basis in Pennsylvania. There are two general policies from which a control agency may choose its plan of procedure. Either (1) the price for fluid milk may be maintained at an unnaturally high level and the amount which cannot be sold as fluid milk converted to other classes or (2) the price for Class 1 may be lower and a greater volume may be absorbed in this higher priced class with proportionally less in the surplus classes. The former policy has been adopted by the Pennsylvania Milk Control Commission.

In spite of the expressed purpose of the act to correct the disparity in prices paid farmers for milk and prices of other commodities, the evidence points toward slightly greater disparity since milk control was inaugurated.

Prices for the different classes vary according to the use to which the milk is put. Milk in the fluid classes returns a higher price to farmers because the cost of transporting fluid milk is greater than the cost of shipping manufactured dairy products. The difference in price is also due to the added cost of producing milk in more

sanitary surroundings. From a study of the differentials for fluid uses in Philadelphia and Pittsburgh it appears that the differentials do not remain constant for either city over a period of time nor is there any semblance of constancy in the ratio by which the differentials in one city exceed those in the other city.

The volume of milk moving in interstate commerce has decreased since the advent of milk price control by the government. It is likely that this decrease is due to the more stringent inspection requirements rather than to price differentials.

The number of special grades under which milk is sold has been increasing since the first Control Board Order. Premiums paid producers have been decreasing and specifications for sanitary production have increased.

The Milk Control Commission has come to recognize the importance of some plan for the control of seasonal production of milk. However, they have as yet given no consideration to the more important problem of cyclical swings in the number of cows on farms. The present price policies are being carried out with little or no regard for future supplies.

Cost data are inadequate and emphasis on costs at hearings appears to be out of proportion to its place in price fixing. Better cost figures and the correct analysis of them are needed.

CONCLUSIONS

Milk Control experience in Pennsylvania has little to recommend it. Nevertheless, it is a part of the philosophy of the time and we must expect to live with it, at least until this philosophy of regulation consumes itself.

Immediate attention should be directed toward reforms in the administration of controlled prices. The establishment of prices is not an appropriate field for busying politicians. The person in charge of policies should not be bound by vote strings. Although complete separation of the Commission from political movements is impossible, such a goal might be the aim in reform.

The free play of price-making forces is not likely to return nor is it desirable in the case of milk prices. However, the industry itself has exercised some control in the past and might be expected to do the same in the future if the price-fixing authority were returned to those most able to exercise it. A board with permission rather than with mandatory powers of price fixing would in any case seem a more gradual and evolutionary procedure than the abrupt revolutionary program of rigid price fixing.

Milk Control was inaugurated ostensibly to improve the producer's economic position. It is argued by some that the real motives for farm legislation have been consumers' interests. Are consumers concerned with improving the farmers' position in order to secure an adequate supply of cheap food or are they more concerned with building up the farmers' purchasing power? As long as emphasis on the producer's purchasing power is foremost in the public mind the producer

may expect to get favorable decisions. When the consumers become conscious of high costs of living their viewpoint inevitably clashes with the farmers' interests. In Pennsylvania consumers exert the more powerful political pressure and the politically appointed Commission may be expected to reflect the attitude of the larger group of constituents.

APPENDIX

Table 1 - Weighted Composite Index Numbers of 20 Farm Products in Pennsylvania, 1922-1937*.
(1910-14=100)

Year	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Year average
1922	147	151	130	130	130	120	130	127	126	134	139	149	135
1923	146	142	141	142	146	150	149	144	157	163	159	150	149
1924	146	147	140	140	137	142	141	145	143	146	146	154	144
1925	154	153	146	149	155	159	161	161	155	165	187	173	160
1926	173	170	168	170	159	155	156	151	158	161	177	166	164
1927	164	158	153	158	158	157	157	152	159	169	171	162	160
1928	164	159	156	163	165	165	166	159	157	157	155	162	161
1929	155	157	160	162	162	167	165	162	177	192	183	168	167
1930	163	156	147	155	148	140	137	135	144	153	148	130	147
1931	125	117	117	123	114	109	108	102	102	94	96	96	108
1932	87	82	81	84	79	78	79	78	78	78	76	76	80
1933	73	67	66	72	78	84	94	95	102	108	104	92	86
1934	91	96	97	98	96	92	100	104	102	101	97	100	98
1935	101	107	103	109	114	110	108	104	102	100	108	115	107
1936	109	113	111	114	113	115	120	126	127	131	129	122	119
1937	124	124	125	129	125	123	127	124	120	112	115	114	122

*Data for years before 1934 may be found on page 6 of Pennsylvania Agricultural Experiment Station Bulletin No. 309.

Table 2 - Index Numbers of Prices of a 20 Per Cent Dairy Feed*.
(1910-14=100)

Year	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Year average
1928	149	148	162	168	174	173	171	150	138	153	153	157	158
1929	157	158	161	151	140	142	149	144	146	155	153	154	151
1930	149	140	136	141	138	135	130	132	127	127	123	124	133
1931	119	113	114	114	106	101	98	84	78	80	88	85	98
1932	79	76	78	79	73	71	70	70	68	70	68	69	72
1933	68	66	71	75	82	84	113	101	93	93	95	94	86
1934	96	98	103	101	96	104	106	112	116	124	128	132	110
1935	136	128	123	123	121	115	110	97	92	103	99	95	112
1936	98	94	96	96	95	97	122	128	125	130	134	134	112
1937	146	135	135	145	141	151	130	108	100	103	99	-	-

*Data for years before 1934 may be found on page 18 of Pennsylvania Agricultural Experiment Station Bulletin No. 309.

Table 3 - Index Numbers of Pennsylvania Prices of Milk Containing 4 Per Cent Butterfat*.
(1910-14=100)

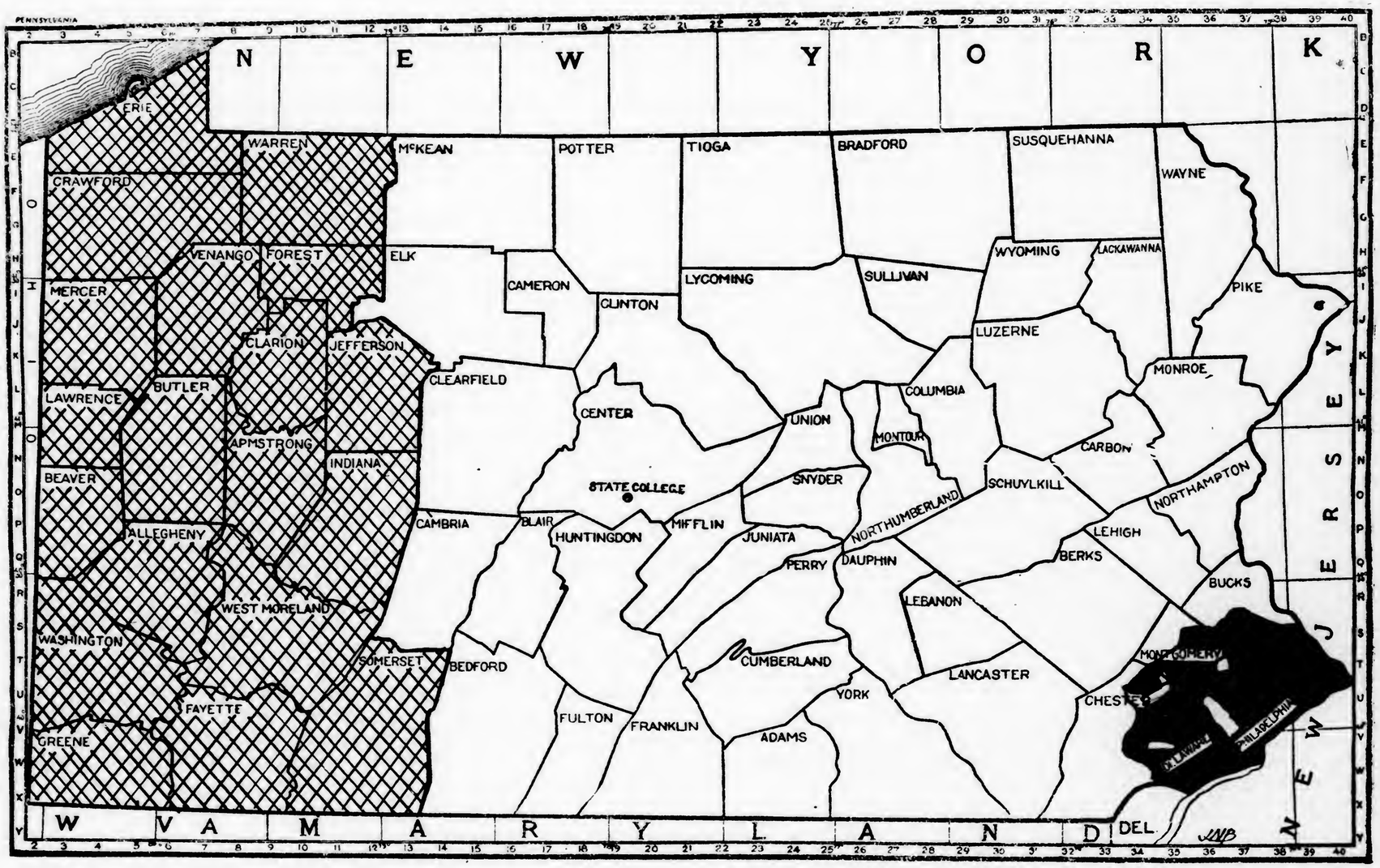
Year	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Year average
1922	145	140	129	130	132	135	141	145	148	160	167	175	146
1923	173	170	168	174	173	176	181	178	180	179	170	167	174
1924	167	161	159	165	149	154	153	153	154	151	155	162	157
1925	164	167	169	172	171	172	171	169	166	164	164	168	167
1926	167	166	165	166	161	162	165	169	171	169	175	177	168
1927	179	181	182	181	183	182	179	175	179	180	179	180	180
1928	182	177	172	170	176	176	178	181	179	180	182	182	179
1929	185	185	189	187	185	185	183	181	182	183	176	169	182
1930	164	162	161	165	165	162	162	169	168	162	150	137	161
1931	134	134	131	132	130	128	132	130	122	113	109	97	124
1932	99	99	96	95	91	90	88	88	87	83	76	72	88
1933	71	73	71	80	88	99	103	108	109	106	105	102	93
1934	106	109	107	115	119	119	120	123	115	112	115	116	115
1935	124	126	124	129	122	117	116	119	112	113	120	119	120
1936	124	127	123	127	126	128	134	137	131	129	127	129	129
1937	133	135	133	133	133	130	139	141	141	138	139	127	135

*Data for years before 1934 may be found on page 50 of Pennsylvania Agricultural Experiment Station Bulletin No. 309.

Table 4 - Pounds of Milk Required to Buy a Ton of 20 Per Cent Dairy Feed*.

Year	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Year average
1922	1410	1552	1780	1865	1979	1937	1721	1497	1395	1349	1312	1284	1590
1923	1383	1473	1504	1464	1585	1550	1477	1463	1449	1378	1399	1385	1459
1924	1428	1484	1514	1521	1775	1743	1806	1872	1788	1754	1605	1566	1655
1925	1649	1614	1595	1570	1728	1816	1732	1670	1527	1342	1295	1296	1569
1926	1386	1359	1339	1434	1564	1549	1454	1380	1279	1186	1133	1125	1349
1927	1170	1235	1248	1300	1446	1534	1508	1499	1434	1321	1270	1301	1355
1928	1361	1455	1640	1806	1959	1954	1828	1602	1436	1422	1329	1363	1596
1929	1415	1472	1480	1474	1510	1523	1547	1521	1492	1403	1373	1434	1470
1930	1515	1495	1465	1562	1651	1641	1524	1509	1418	1299	1299	1443	1485
1931	1474	1465	1517	1581	1620	1580	1419	1252	1187	1181	1271	1376	1410
1932	1344	1322	1399	1497	1604	1583	1519	1533	1451	1389	1437	1493	1464
1933	1598	1585	1731	1705	1843	1677	2079	1806	1592	1462	1440	1465	1665
1934	1508	1554	1657	1597	1599	1734	1689	1747	1872	1803	1716	1829	1692
1935	1832	1750	1719	1663	1954	1957	1789	1649	1524	1515	1314	1322	1666
1936	1307	1265	1341	1383	1478	1497	1717	1797	1777	1684	1680	1713	1553
1937	1829	1730	1752	1994	2097	2299	1771	1480	1315	1247	1130	-	-

*Data for years before 1934 may be found on page 21 of Pennsylvania Agricultural Experiment Station Bulletin No. 309.



Philadelphia Western

Figure 1. Milk Marketing Areas Defined by the Pennsylvania Milk Control Board, April 2, 1934.

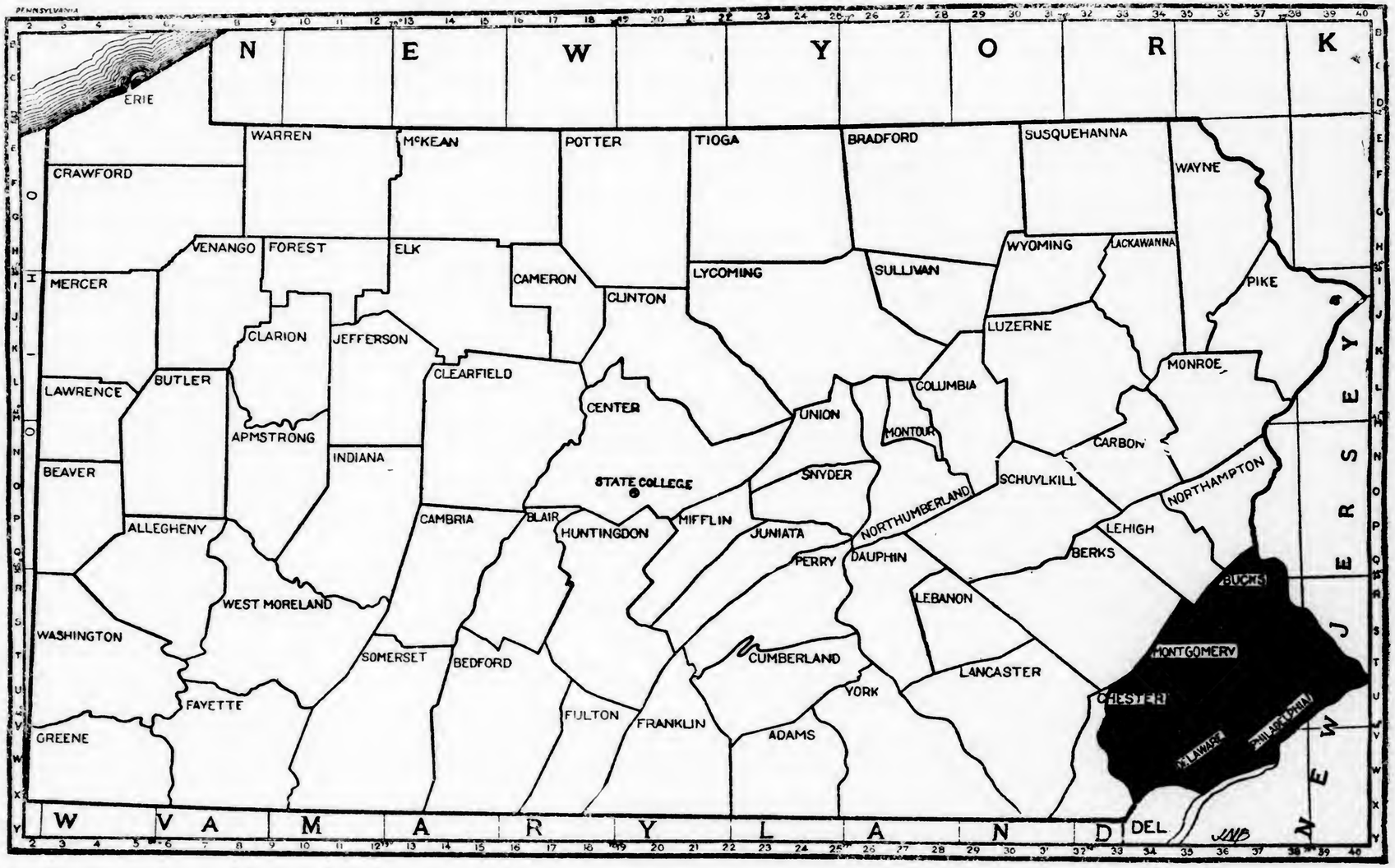
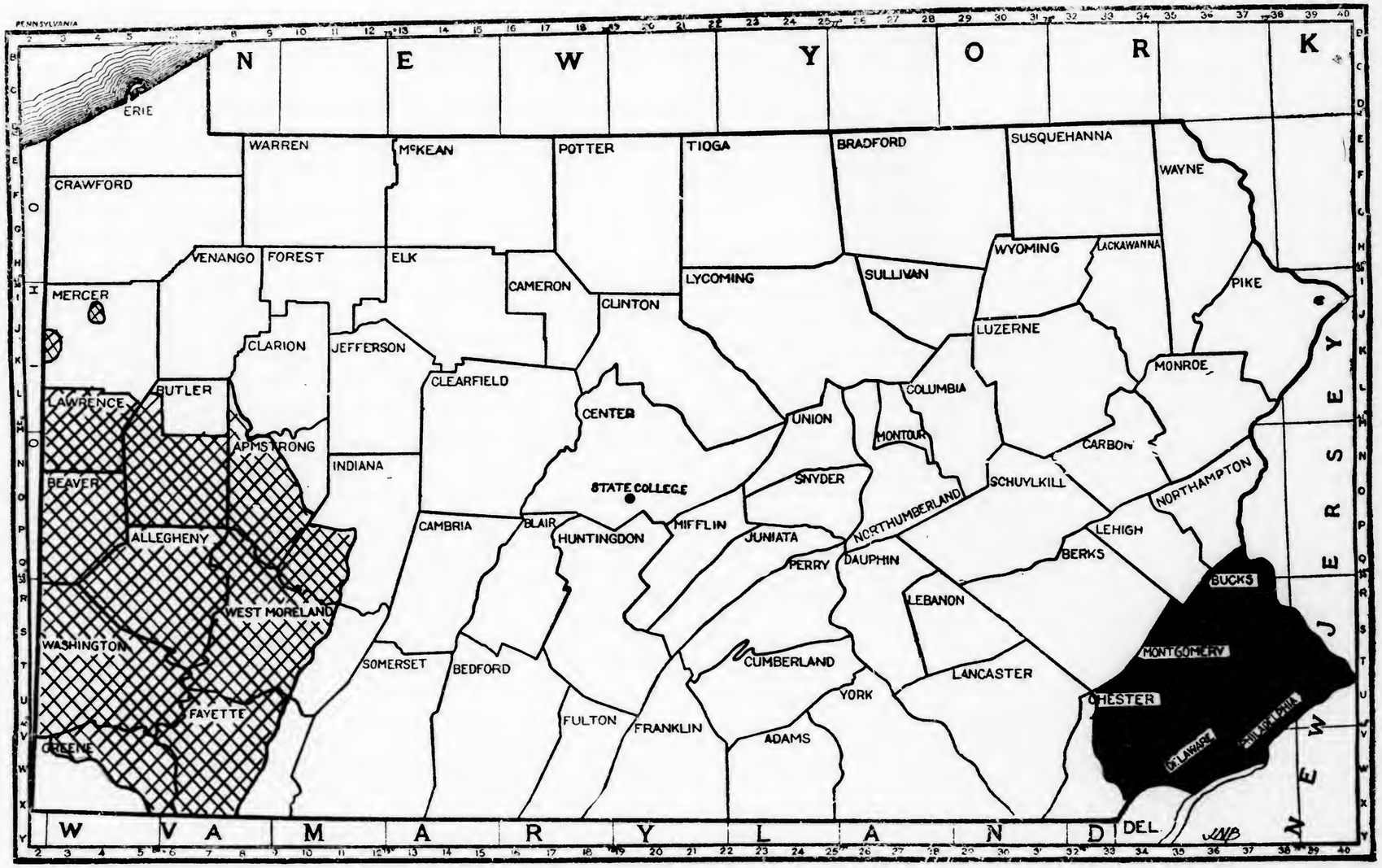
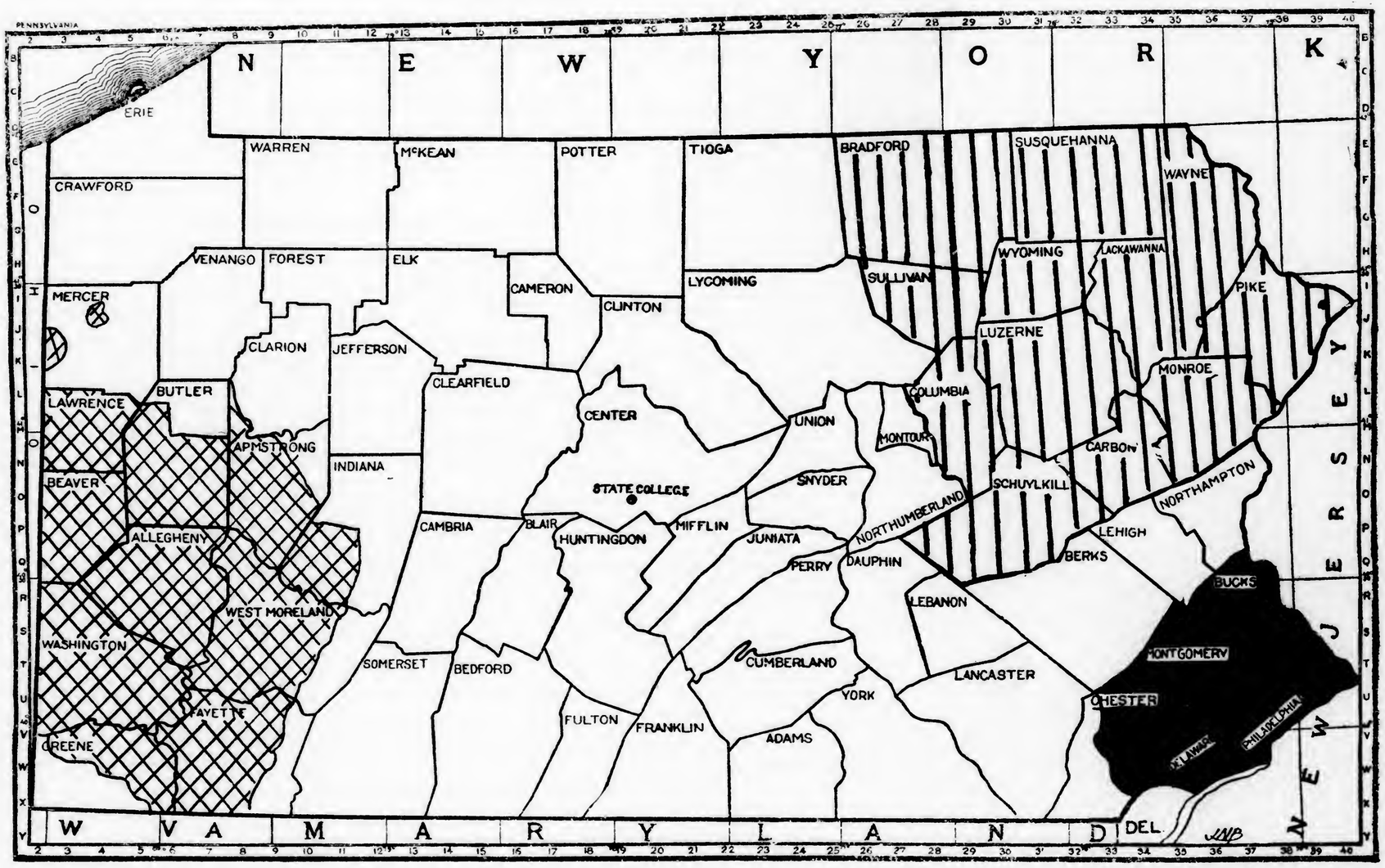


Figure 2. Milk Marketing Areas Defined by the Pennsylvania Milk Control Board, June 1,.1934.



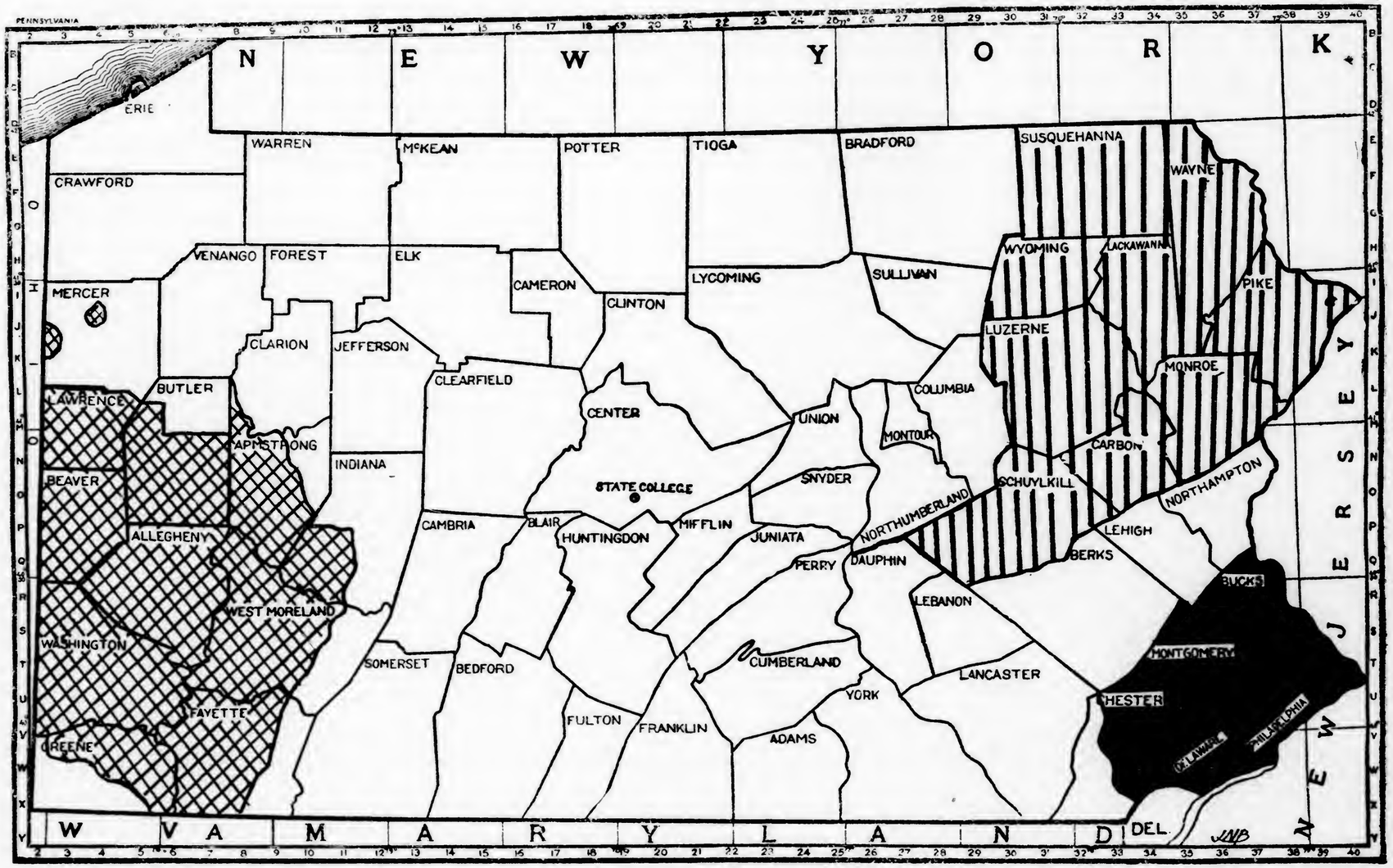
■ Philadelphia ⊠ Pittsburgh

Figure 3. Milk Marketing Areas Defined by the Pennsylvania Milk Control Board, August 7, 1934.



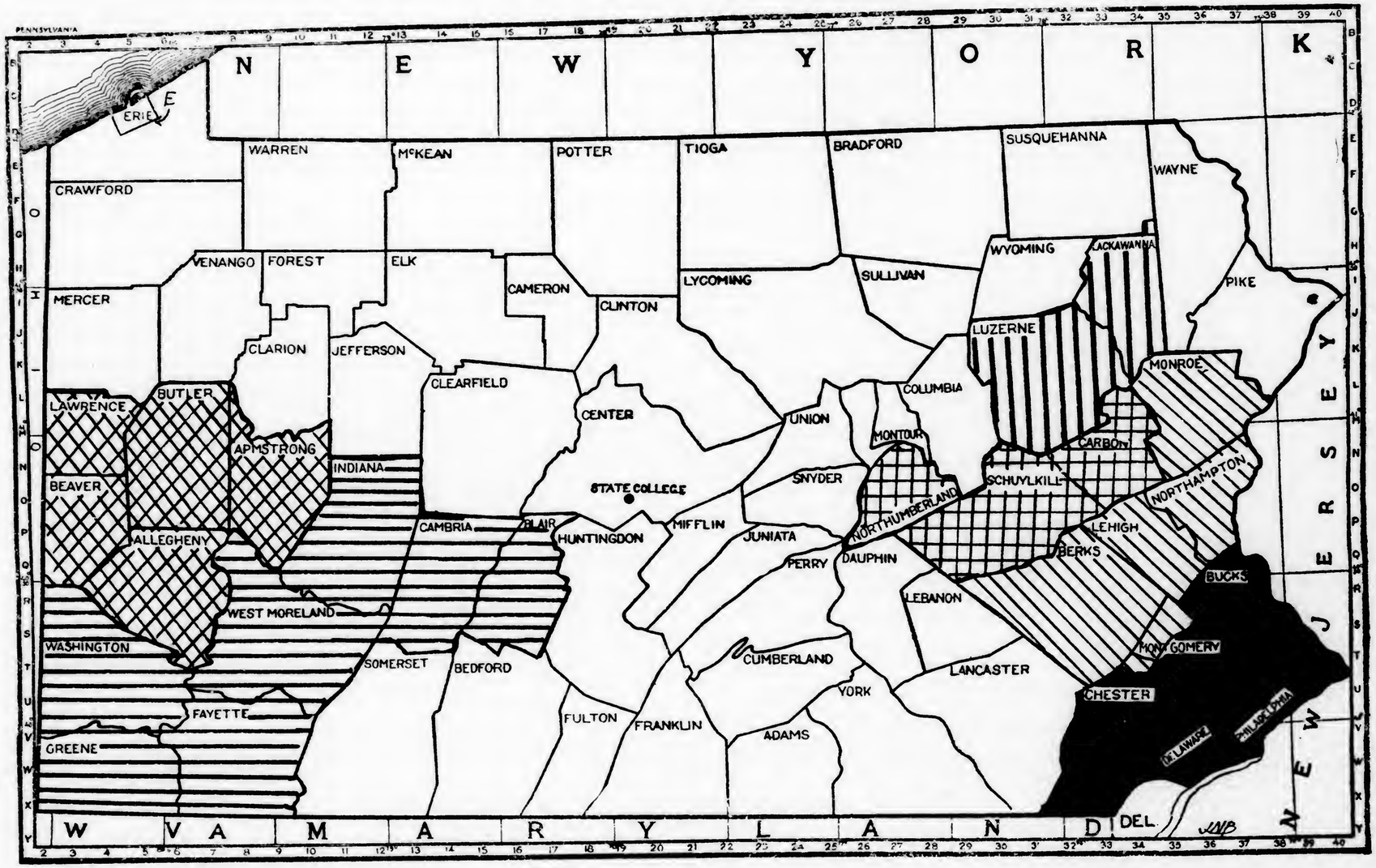
■ Philadelphia ▨ Pittsburgh ▥ Scranton

Figure 4. Milk Marketing Areas Defined by the Pennsylvania Milk Control Board, October 1, 1934.



■ Philadelphia ⊠ Pittsburgh ▯ Scranton

Figure 5. Milk Marketing Areas Defined by the Pennsylvania Milk Control Board, November 16, 1934.



Philadelphia
Pittsburgh
Southwestern
Schuylkill
Scranton
Lehigh
Erie
State-wide

Figure 6. Milk Marketing Areas Defined by the Pennsylvania Milk Control Board, January 16, 1936.

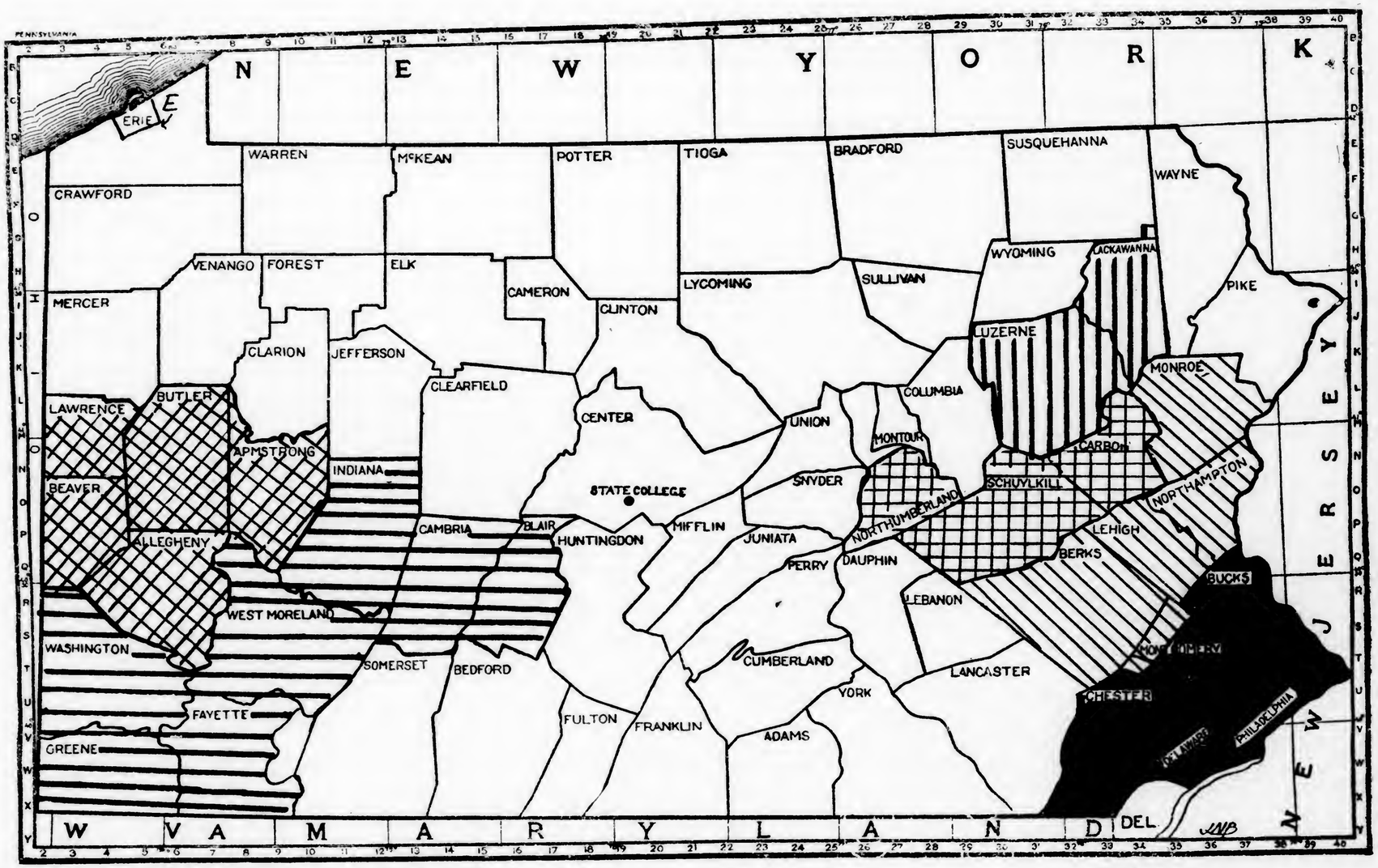
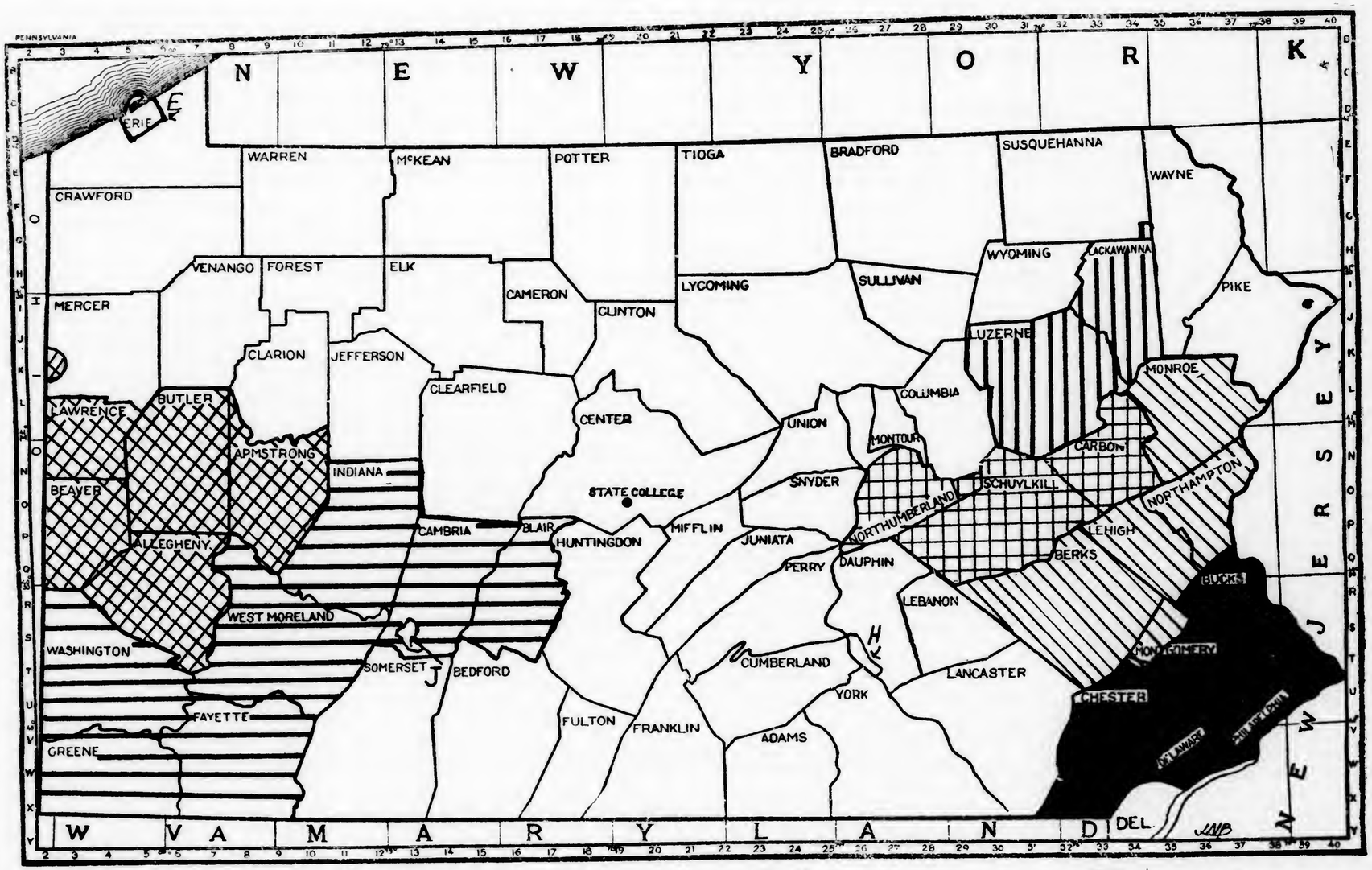


Figure 7. Milk Marketing Areas Defined by the Pennsylvania Milk Control Board, June 16, 1936.



Philadelphia
Pittsburgh
Southwestern
Schuylkill
Scranton
Lehigh
E Erie
H Harrisburg
J Johnstown
State-wide

Figure 8. Milk Marketing Areas Defined by the Pennsylvania Milk Control Board, October 11, 1936.

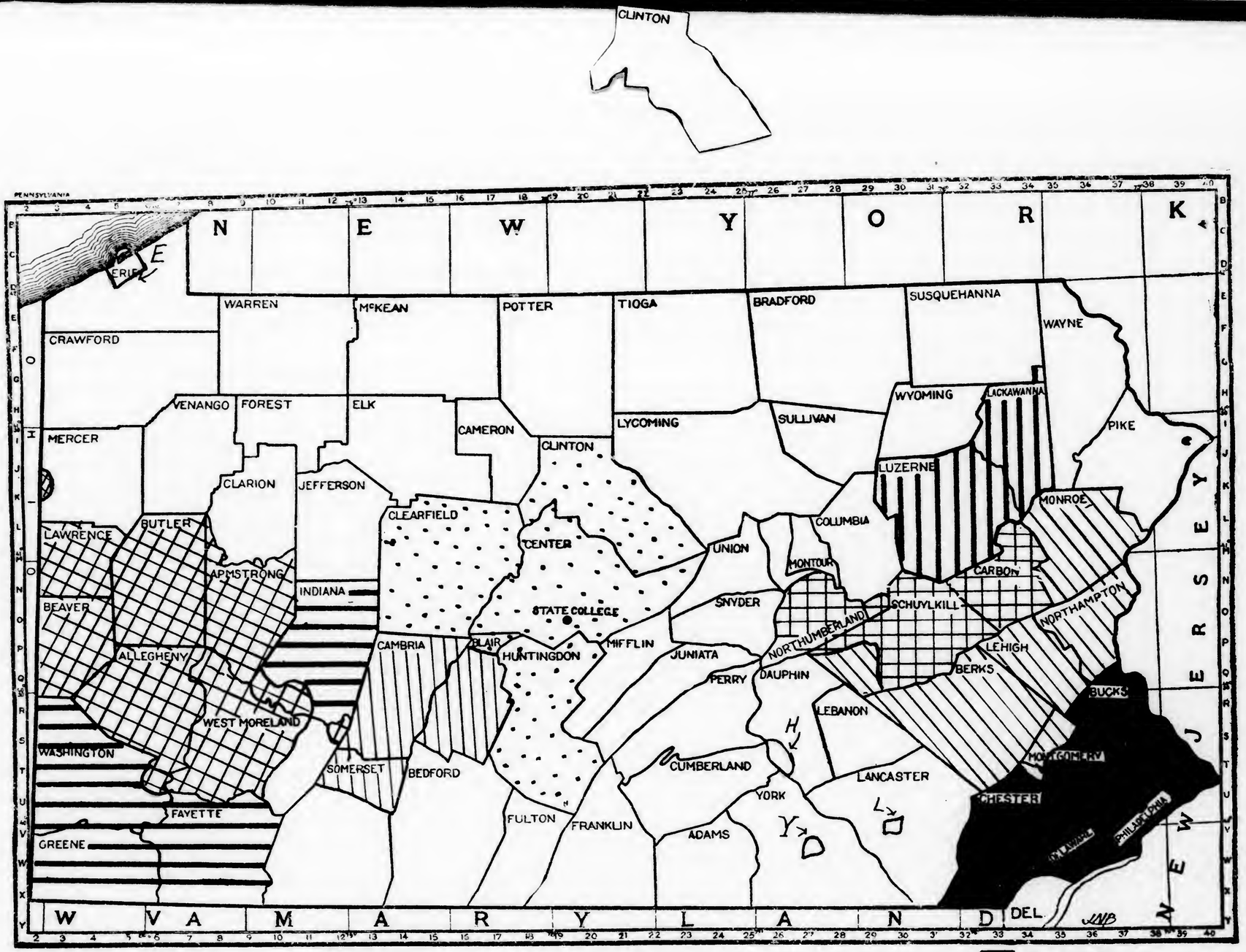


Figure 9. Milk Marketing Areas Defined by the Pennsylvania Milk Control Board, January 1, 1937.

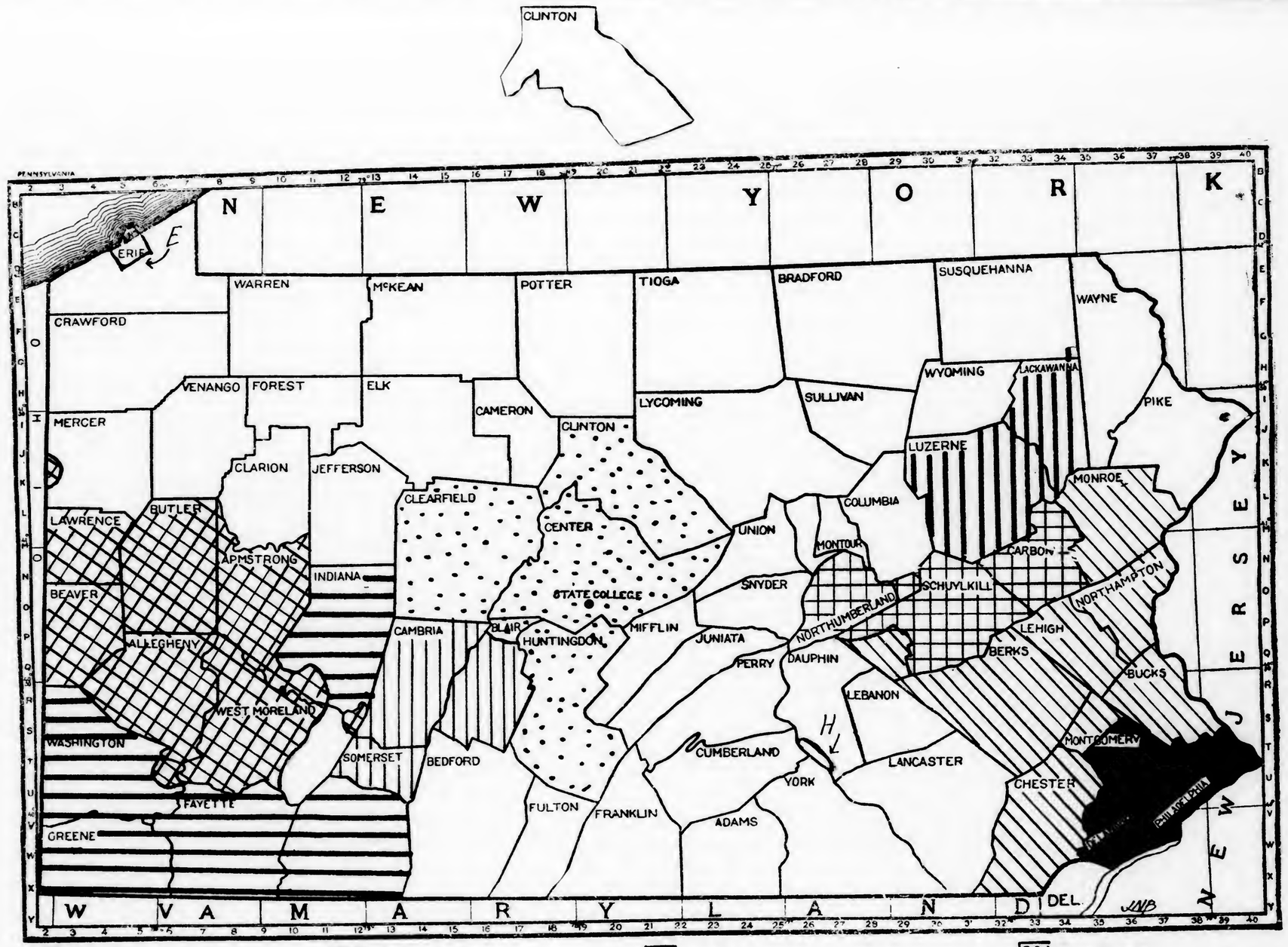


Figure 10. Milk Marketing Areas Defined by the Pennsylvania Milk Control Commission, June 2, 1937.

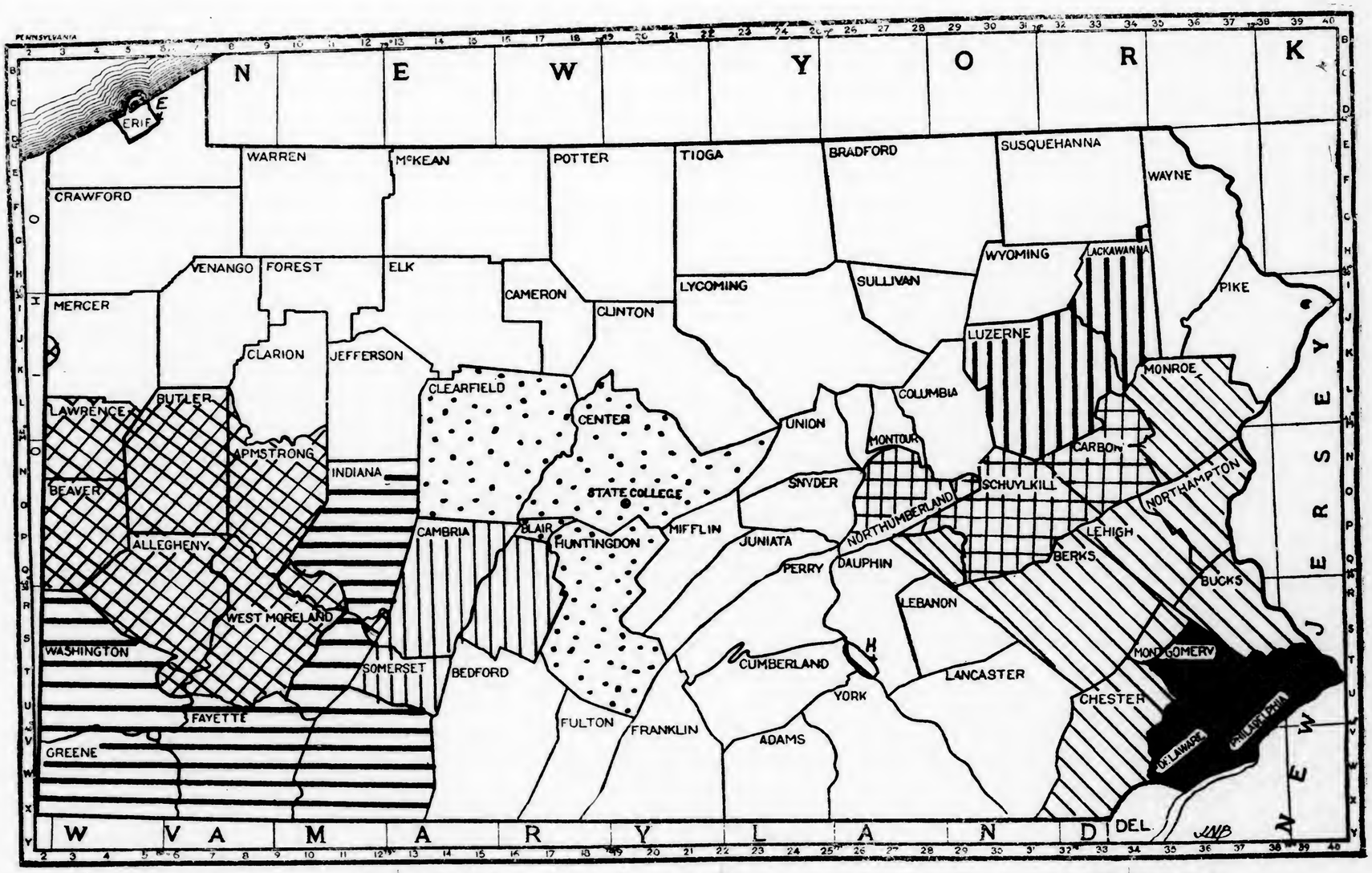


Figure 11. Milk Marketing Areas Defined by the Pennsylvania Milk Control Commission, July 1, 1937.

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